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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92042082
Party	Defendant International Gold Star Trading Corp.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FOUR SEASONS DAIRY, INC., )  
 ) Cancellation No.  
Petitioner, ) 92/042,082  
 )  
vs. ) Mark: Babushka's Recipe  
 )  
INTERNATIONAL GOLD STAR, ) Reg. No. 2,479,287  
TRADING CORP., )  
 ) VOLUME III  
Registrant. )  
-----)

CONTINUED CONFIDENTIAL DEPOSITION OF  
GALINA PINCOW  
New York, New York  
Thursday, October 23, 2008

Reported by:  
MAYLEEN CINTRON, RMR, CRR  
JOB NO. 19406

October 23, 2008

10:41 a.m.

CONTINUED CONFIDENTIAL DEPOSITION OF  
GALINA PINCOW, taken by Petitioner, held at  
the offices of Cohen, Pontani, Lieberman &  
Pavane, LLP, 551 Fifth Avenue, New York, New  
York, before MayLeen Cintron, a Registered  
Merit Reporter, Certified Realtime Reporter,  
and Notary Public of the State of New York.

A P P E A R A N C E S:

SAMUEL FRIEDMAN, ESQ.

Attorney for Petitioner

225 Broadway - Suite 1804

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BY: ROGER S. THOMPSON, ESQ.

- - -

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2 G A L I N A P I N C O W,

3 called as a witness, having been duly

4 resworn by a Notary Public, was

5 examined and testified as follows:

6 CONTINUED EXAMINATION BY

7 MR. FRIEDMAN:

8 Q. Good morning, Ms. Pincow.

9 A. Good morning.

10 Q. Do you recollect signing an  
11 application to register "Babushka's Recipe" as  
12 a trademark with the United States Patent and  
13 Trademark Office?

14 A. I believe Gold Star signed such  
15 document. I don't recall if I personally  
16 signed it or if it was my husband Robert  
17 Pincow who signed the document.

18 Q. Had you, prior to that, signed any  
19 applications for trademarks?

20 MR. THOMPSON: Objection. Are you  
21 referring to on behalf of Gold Star or  
22 for some other reason?

23 MR. FRIEDMAN: In any capacity.

24 A. I believe I have.

25 Q. Are you aware that in signing such

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2 an application, one is under oath to tell the  
3 truth?

4 A. Yes, I am.

5 Q. Now, do you recollect that in the  
6 Gold Star application to register "Babushka's  
7 Recipe" as a trademark for dairy products,  
8 excluding ice and milk, do you recall having  
9 alleged a date of first use?

10 A. I don't recall.

11 Q. Do you recollect having alleged a  
12 date of first use in commerce?

13 A. I don't recall.

14 Q. Are you aware of the significance  
15 of first use in commerce as used by the United  
16 States Patent and Trademark Office?

17 MR. THOMPSON: I would object to  
18 that as calling for her legal  
19 conclusion. She may not have any  
20 understanding of what that significance  
21 is.

22 MR. FRIEDMAN: That's why I'm  
23 asking.

24 MR. THOMPSON: But how would she  
25 know if she doesn't know. The point

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2 is, she may think she has an  
3 understanding, but that may not be what  
4 the actual significance is.

5 Q. But I would like to know what your  
6 understanding is.

7 A. I have learned about it through  
8 dealing with this case to a certain extent.  
9 Whether I would qualify myself as an expert on  
10 the issue? Probably not.

11 (Petitioner Exhibit 215, Trademark  
12 Application, P0110-114, marked for  
13 identification, as of this date.)

14 Q. Ms. Pincow, you've been handed  
15 what's been marked as P-215. It is five pages  
16 stapled together with Bates stamp numbers  
17 P0110 through P0114. Now I ask whether you  
18 can identify this document.

19 A. The document in front of me is  
20 entitled in the United States Patent and  
21 Trademark Office, trademark Application,  
22 Corporate Applicant. The mark is Babushka's  
23 Recipe. The applicant is International Gold  
24 Star with the address of 570 Smith Street,  
25 Brooklyn, New York 11231. Should I continue?

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2 Q. No. That's fine. Can you please  
3 look at the second page?

4 A. Yes.

5 Q. Do you see your signature there?

6 A. Yes, I do.

7 Q. Is that your signature --

8 A. Yes.

9 Q. -- where it says Galina Pincow?

10 A. Yes, it is.

11 Q. And you signed it in what capacity?

12 A. VP.

13 Q. That means vice president?

14 A. Yes.

15 Q. So is it the case that you were  
16 vice president of International Gold Star in  
17 November of 1999?

18 A. Yes, I was.

19 Q. When did you become vice president?

20 A. I've been vice president of  
21 different departments of Gold Star, and I  
22 can't give you a specific date that I started  
23 using the title VP.

24 Q. Now, you were aware when you signed  
25 this document that it was signed under oath,



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2 true?

3 A. Well, I didn't take an oath, but I  
4 know that what I had to disclose had to be  
5 correct.

6 Q. Well, do you see the language  
7 starting at the bottom of page 0110, second  
8 line from the bottom, "All statements made  
9 herein of her own knowledge are true and that  
10 all statements made herein on information and  
11 belief are believed to be true, and further  
12 that these statements were made with the  
13 knowledge that willful false statements and  
14 the like so made are punishable by fine or  
15 imprisonment or both"?

16 A. Yes, I do see that language.

17 Q. And you did read this document  
18 before signing it, true?

19 A. I probably did.

20 Q. And you signed it on the date  
21 listed on page 2?

22 A. Yes.

23 Q. And that would be November 11,  
24 1999?

25 A. Correct.

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2 Q. And directing your attention to the  
3 first page underneath the word "Sir," the  
4 second paragraph, do you see that paragraph  
5 starting with the words "The mark"?

6 A. Yes.

7 Q. Could you please read that into the  
8 record?

9 A. "The mark was first used on the  
10 goods in September 1999; was first so used in  
11 interstate commerce in September 1999 and is  
12 now in such use in such commerce."

13 Q. Thank you.

14 Is that a true statement, what you  
15 just read into the record?

16 A. Looking in retrospect -- okay.  
17 Well, it is a true statement.

18 Q. So, it's your testimony then that  
19 the mark "Babushka's Recipe" was first used on  
20 dairy products by International Gold Star in  
21 September of 1999?

22 A. That is what this particular  
23 application for the trademark says. I believe  
24 there was a prior application with a different  
25 date, with an earlier date.

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2 Q. A prior application for what goods?

3 A. Dairy products.

4 Q. For what mark?

5 A. "Babushka's Recipe."

6 Q. And when was this prior application  
7 filed?

8 A. I would say at least 1998, if not  
9 earlier.

10 Q. Was it filed with the U.S. Patent  
11 and Trademark Office?

12 A. To the best of my knowledge.

13 Q. Did an attorney file that on your  
14 behalf?

15 A. I hope so.

16 Q. Is it Mr. Thompson?

17 A. Yes, it is.

18 Q. How many applications to register  
19 "Babushka's Recipe" as a trademark did  
20 International Gold Star file?

21 A. It should be at least four or five.

22 Q. Four or five separate applications?

23 A. Yes.

24 Q. Now, assuming that you did, in  
25 fact, file an earlier application as you've

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2 said, why did you then change the date of  
3 first use in the application that has been  
4 marked as P-215?

5 A. There were certain --

6 MR. THOMPSON: I would object to  
7 form. You haven't established that  
8 this was changed in this application.

9 Q. I understood you to say earlier  
10 that in the earlier application filed to  
11 register "Babushka's Recipe" as a trademark,  
12 that there was an earlier date of first use  
13 alleged?

14 A. Correct.

15 Q. What was that earlier date of first  
16 use?

17 A. It should have been 1998 at the  
18 very -- at the very latest.

19 Q. In the earlier application?

20 A. Right.

21 Q. So why then in this application  
22 marked as P-215, is there alleged the date of  
23 first use in September 1999?

24 A. I understood this application being  
25 as an application where we had an additional

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2 category of products, such as processed and  
3 marinated vegetables.

4 Q. Is it your testimony then that the  
5 date of first use in P-215 relates only to the  
6 processed and marinated vegetables?

7 A. Right.

8 Q. When did Gold Star start selling  
9 processed and marinated vegetables under the  
10 "Babushka's Recipe" trademark?

11 A. I believe it was the year 2000.

12 Q. So why do you allege September of  
13 1999 in this application?

14 A. The product that we applied the  
15 label to was imported, so the label had to be  
16 created prior to importation of the product.  
17 There are logistics involved.

18 Q. Well, when were the first actual  
19 sales made by International Gold Star of  
20 marinated vegetables under the mark  
21 "Babushka's Recipe"?

22 A. Okay. If you wish, you can define  
23 for me what you understand as the word  
24 "sales."

25 Q. An arm's length transaction where

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2 money or something of value is paid in  
3 exchange for International Gold Star providing  
4 the product.

5 MR. THOMPSON: Object only to the  
6 use of the term "arm's length." I  
7 don't know if that's an understandable  
8 term to my lay client.

9 Q. When I use the term "arm's length,"  
10 I'm referring to a transaction that is among  
11 people doing business who do not otherwise  
12 have a relationship.

13 A. The first use, that it would be  
14 sent 1999.

15 Q. But my question is: When were the  
16 first sales in U.S. commerce of marinated  
17 vegetables under the mark "Babushka's Recipe"?

18 A. The way I understood what is  
19 required of me to do under this application is  
20 to have my trademark protected from the point  
21 of my label being affixed to a product that I  
22 was in transaction or in contract for, which  
23 would be a product that was imported from a  
24 foreign country.

25 So to me, the first usage,

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2 commercial usage of my label for marinated  
3 vegetables would start on a day that I ordered  
4 such product from a supplier abroad.

5 Q. I don't believe you answered my  
6 question.

7 My question was: When was the first  
8 sale in interstate commerce of marinated  
9 vegetables by International Gold Star under  
10 the mark "Babushka's Recipe"?

11 A. I'd say early 2000.

12 Q. When you say 2000, that is within  
13 the year 2000?

14 A. Right. Early. Early. Beginning  
15 of the year 2000.

16 Q. So then, at the time you signed  
17 this application in November 1999,  
18 International Gold Star had not yet made sales  
19 in commerce of marinated vegetables under  
20 "Babushka's Recipe," true?

21 A. True.

22 Q. Now that we established what the  
23 terms "sales" and "commerce" mean, can you  
24 tell me when was the first sales of interstate  
25 commerce of dairy products of International

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2 Gold Star under the mark "Babushka's Recipe"?

3 A. The earliest sales, I would say,  
4 were in the beginning of 1998.

5 Q. Is that the date that was alleged  
6 in the prior application to register  
7 "Babushka's Recipe" as a trademark?

8 A. I don't remember if that was the  
9 date.

10 Q. Whatever happened to that other  
11 application to register "Babushka's Recipe" as  
12 a trademark?

13 A. I believe that it was in process.

14 Q. Did it mature into a registration?

15 A. I don't know if that specific one  
16 matured into a registration.

17 Q. Was it abandoned?

18 A. "Babushka's Recipe" was never  
19 abandoned.

20 Q. I mean the trademark application  
21 that alleged the earlier date of first use in  
22 commerce.

23 A. I wouldn't know that.

24 Q. Who would know that?

25 A. The trademark office, I guess.



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2 Q. It's easy enough to check.

3 To whom were the first sales of  
4 Babushka's Recipe dairy products made?

5 A. Could you repeat the question  
6 again?

7 Q. To whom or to what were the first  
8 sales of dairy products under Babushka's  
9 Recipe made?

10 A. To the customers of Gold Star.

11 Q. Have you produced the invoices, if  
12 any, that represent those first sales?

13 A. I do not have the invoices that  
14 produced the -- that evidenced the first  
15 sales. And as you already know from all the  
16 documents that were presented to you, the  
17 only -- the earliest invoice that I was able  
18 to produce is dated December 1998.

19 Q. Under what label were the sales  
20 made in early 1998?

21 A. Under Babushka's Recipe label.

22 Q. Is that label one that has been  
23 identified thus far in the proceedings in this  
24 case?

25 A. Yes.

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2 Q. Do you remember which one that is?

3 A. We've had so many different  
4 exhibits here. I could refer to an exhibit if  
5 you produce one to me.

6 MR. THOMPSON: You have a pile of  
7 exhibits here that the witness is not  
8 referring to.

9 Q. Okay. I will ask the witness to  
10 please take a look at what has been marked as  
11 Registrant 117.

12 MR. FRIEDMAN: Off the record.

13 (Discussion off the record.)

14 BY MR. FRIEDMAN:

15 Q. Ms. Pincow, you have been handed  
16 what has been marked as Registrant 117.

17 Is this the label that was first  
18 used by International Gold Star on dairy  
19 products?

20 (Witness reviewing document.)

21 Q. Let me rephrase that question.

22 Is this the first Babushka's Recipe  
23 label used by International Gold Star on dairy  
24 products?

25 A. This is the first Babushka's Recipe

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2 label with the image of "Babushka's Recipe"  
3 that was used on a dairy product.

4 Q. Is this a label that International  
5 Gold Star continues to use today on farmer's  
6 cheese?

7 A. Yes, it is.

8 Q. And who manufactures the label  
9 itself?

10 A. Gold Star.

11 Q. And Gold Star does it with its own  
12 printing machine?

13 A. Yes.

14 Q. Gold Star is able to then change  
15 what is printed on the label?

16 A. The machine allows us to make any  
17 changes to any label that we wish to produce.

18 Q. Why is it that this label does not  
19 identify the manufacturer of the product which  
20 is identified as farmer's cheese?

21 A. We only learned about this  
22 requirement quite recently.

23 Q. How recently did you learn of this  
24 requirement?

25 A. I would say sometime in the course

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2 of the year, past 12 months.

3 Q. Was it in connection with this  
4 case?

5 A. Actually, not.

6 Q. How did Gold Star come to learn of  
7 this requirement?

8 A. We were looking to make a new label  
9 for a dairy product, and that was something  
10 that the manufacturer suggested that we have  
11 on the label, his plant number.

12 Q. Which manufacturer is that?

13 A. The manufacturer that we wanted to  
14 do this with is actually a manufacturer that  
15 is based overseas, and the name of the company  
16 is Molis, M-O-L-I-S. And the plant number he  
17 wanted to put on would not be your USDA  
18 number, but rather a number that is required  
19 by EU.

20 Q. In what country is Molis located?

21 A. Ukraine.

22 Q. What manufacturer manufactured the  
23 dairy products that you have testified that  
24 International Gold Star sold under Babushka's  
25 Recipe in 1998?

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2 A. We had two suppliers that produced  
3 for us product that we labeled with a Babushka  
4 label, and they were Queensboro Farms and  
5 Bunker Hill Cheese.

6 Q. Just to make sure I've covered the  
7 ground: Were there any other manufacturers of  
8 dairy product used by International Gold Star  
9 in the year 1998 besides Queensboro and Bunker  
10 Hill that you have identified?

11 A. For a Babushka label?

12 Q. In general.

13 A. For private label?

14 Q. For anything.

15 A. Oh, we have more than 40-plus  
16 vendors that provide us with dairy products,  
17 and I'm sure even back in 1998, we already had  
18 that many that we worked with.

19 Q. Then I will narrow the question to:  
20 You've identified two things, I believe,  
21 private label and Babushka's Recipe.

22 When you use the term "private  
23 label," what are you referring to?

24 A. Private label could be any label  
25 that is created by Gold Star for Gold Star's

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2 use. It does not necessarily have to be  
3 Babushka.

4 Q. In the year 1998, what private  
5 labels, if any, was International Gold Star  
6 using for dairy products?

7 A. To the best of my knowledge, that  
8 would be Queensboro Farms -- the suppliers  
9 would be Queensboro Farms and Bunker Hill  
10 Cheese.

11 MR. FRIEDMAN: Will you please read  
12 back that last question?

13 (Record read.)

14 A. To the best of my knowledge,  
15 Babushka's Recipe was the only label that we  
16 were using for private label of a dairy  
17 product.

18 Q. Now, I ask you the same question  
19 for the year 1999.

20 A. I don't recall.

21 Q. You don't recall whether in 1999,  
22 International Gold Star was using any  
23 additional private labels beyond Babushka's  
24 Recipe?

25 A. For dairy products. Yes, that's my

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2 answer.

3 Q. And in the year 2000?

4 A. In the year 2000, we may have added  
5 new private labels. But I cannot say for  
6 certain that it was the year 2000.

7 Q. What is the new private that was  
8 added?

9 A. If I could refer to my catalog,  
10 I'll point out the private labels.

11 Q. Is there any particular year  
12 catalog that you would like?

13 A. If you don't mind, I will look at  
14 them all and be more specific.

15 Q. Let me hand you what has been  
16 marked as Respondent's Exhibit 4 at the  
17 deposition of April 17, 2008.

18 I believe you previously testified  
19 in this case that that is the first  
20 International Gold Star catalog?

21 A. Yes, I have.

22 Q. And that is from the year 2000?

23 A. About. It was developed in '99,  
24 and I think finally printed in the year 2000.

25 I see already that there is one

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2 product that would be in my catalog Exhibit 4,  
3 Respondent's 4, there is a product, a dairy  
4 product on page 22 under item No. 41100, and  
5 that would be -- that would be feta cheese,  
6 that we call M-O-L-D-O-V-S-K-Y-A feta.

7 'Moldovskya brinca,' which means Moldovskya  
8 feta. And that is a product that is already  
9 private label with "Gold Star" label.

10 Q. Now, by "Gold Star" label, you mean  
11 the circle with the star in the center and the  
12 words "Gold" on top and "Star" below?

13 A. Correct.

14 Q. Any other Gold Star private labels  
15 for dairy products in this catalog?

16 A. Other than the Babushka?

17 Q. Other than Babushka.

18 A. Yes. There is an item No. 41500,  
19 which is pot cheese, which bears "Gold Star"  
20 label for pot cheese which also has a "Gold  
21 Star" logo on top of it. That's pot cheese,  
22 P-O-T.

23 Q. May I see that?

24 A. (Handing).

25 Q. Now, is the "Gold Star" label on



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2 41500 the same as the "Gold Star" label on  
3 41100. And I'm referring to the "Gold Star"  
4 logo.

5 A. I believe it is. It may have just  
6 the difference in the star itself. But the  
7 font of the words "Gold" and "Star" are  
8 probably the same, although this is not quite  
9 as legible. But I believe them to be the same  
10 as this label, as 41100 and 41500.

11 Q. And who manufactured that pot  
12 cheese for International Gold Star?

13 A. Queensboro Farms.

14 Q. Back to 41500. Was there any label  
15 for that product in addition to the "Gold  
16 Star" label?

17 MR. THOMPSON: Can I hear that read  
18 back?

19 (Record read.)

20 Q. What I mean by that is: You  
21 identified another private label in this  
22 catalog as being called Moldovskya feta.

23 So I ask you: With respect to the  
24 pot cheese, did it have a name given to it by  
25 Gold Star other than --

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2 A. Pot cheese?

3 Q. -- Gold Star?

4 A. No. We referred to this product as  
5 pot cheese. We did not create another name  
6 for it.

7 Q. Any other private label dairy  
8 products in this catalog?

9 A. I could refer you to an item 41440,  
10 which is called 'brinca odesskaya'. This  
11 product does not bear a label unfortunately in  
12 the picture of this catalog. And this is a  
13 type of a feta cheese.

14 It doesn't bear a label, but I  
15 believe that the two may have had a label Gold  
16 Star and created as a private label for Gold  
17 Star, but unfortunately it does not bear a  
18 label.

19 Q. Would that have been manufactured  
20 by Queensboro as well?

21 A. No.

22 Q. Who would have manufactured that?

23 A. I don't recall who the vendor is.

24 Q. Does that catalog contain any  
25 marinated vegetables sold by International

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2 Gold Star under the Babushka's Recipe label?

3 A. No, it doesn't.

4 Q. If you're not finished, please --

5 A. I'm finished. Unless you want me  
6 to refer...

7 Q. The next thing in the nature of a  
8 catalog would be the 2001 to 2002 price list.  
9 I'm going to ask that you have a look at that.  
10 That is R-122.

11 In that document, can you identify  
12 dairy products sold by Gold Star under a  
13 private label other than Babushka's Recipe?

14 A. Other than Babushka?

15 Q. Yes.

16 A. Okay. We have an item on page 14  
17 of Gold 0048, and this is Old Salzberg cheese.

18 Q. I would like to clarify for the  
19 record that 0048 is the Bates stamp number at  
20 the bottom, whereas page 14 is the number of  
21 the catalog at the top; is that correct?

22 A. Right. So the item would be 42015  
23 under the name Old Salzberg Cheese.

24 Well, there is the 'brinca' under  
25 the same item, 41440, feta cheese which is the

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2 'brinca odesskaya', which I believe was also  
3 with the label of Gold Star on it.

4 Q. "The label of Gold Star" meaning  
5 that "Gold Star" with the circle in the  
6 center?

7 A. Correct. We're looking only at  
8 dairy products; is that correct?

9 Q. At the moment, yes. Let's complete  
10 that.

11 A. Well, that's all I see that I would  
12 qualify as private label other than Babushka.

13 Q. Are there any marinated vegetables  
14 reflected in this price list that are sold  
15 under the Babushka's Recipe label?

16 A. Yes. It would be on page 16. And  
17 these are -- do you want me to list all the  
18 numbers?

19 Q. Okay.

20 A. Okay. So from 39900 through 39907.  
21 This would be different variety of pickled  
22 marinated vegetables under Gold Star brand,  
23 meaning "Gold Star" logo.

24 Q. Now, in case my question wasn't  
25 clear, I asked you whether this price list

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2 reflects any marinated vegetables sold by Gold  
3 Star under the Babushka's Recipe label?

4 A. This one doesn't.

5 Q. When you say "this one," you're  
6 referring to Exhibit R-122?

7 A. Yes.

8 Q. I believe you testified on an  
9 earlier day that Gold Star does have the  
10 capacity to make changes to this price list  
11 within its own computers; true?

12 A. Can you repeat the question again?

13 Q. On an earlier day in this case last  
14 week, you testified that International Gold  
15 Star does have the capacity to make changes to  
16 the price list that is reflected as R-122?

17 A. That is not what I said.

18 Q. Can you explain?

19 A. We could not make changes to  
20 something that was created in 2001 or 2002.  
21 I'd be very surprised if that document or file  
22 still exists in the computer.

23 We could create new catalogs, a new  
24 price list, but given today the new system  
25 that we have, it's generated by the computer

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2 software itself. We no longer have to do  
3 Excel files and do things with the nature of  
4 the price list marked as 122, because our  
5 price lists are currently computer-generated  
6 from the software that we own.

7 Q. Let me go back, then, and see if I  
8 can clarify.

9 What I would like to know is: When  
10 was this document, R-122, last modified by  
11 Gold Star?

12 A. I have no answer for that, because  
13 I don't believe this document was modified.

14 Q. Well, when was the document then  
15 created?

16 A. Somewhere either in the beginning  
17 of -- I would guess that it would be the  
18 beginning of 2002. And the reason for that  
19 would be that the price lists are usually  
20 created at the end of certain quarters. Well,  
21 they used to be, I should say. And that would  
22 probably have been created somewhere the  
23 ending of 2001, beginning of 2002.

24 Q. And not updated thereafter; is that  
25 your system?

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2 A. And not updated thereafter. A new  
3 price list would be created.

4 Q. So there were additional price  
5 lists created by Gold Star after R-122?

6 A. Most likely.

7 Q. In terms of documents produced in  
8 this litigation, the very next document in the  
9 nature of a catalog is the 2006 Gold Star  
10 catalog, marked as Registrant 120; is that  
11 correct?

12 MR. THOMPSON: You are looking at  
13 me instead of the witness. Are you  
14 asking me?

15 A. Yes, it is marked as 120.

16 Q. Is that the very next document in  
17 the nature of a catalog produced by Gold Star?

18 MR. THOMPSON: Well, I believe  
19 that's the next catalog produced. I  
20 don't know what you mean by "in the  
21 nature of a catalog." Someone may  
22 consider a price list to be in the  
23 nature of a catalog. I don't know.

24 But it is my understanding that in  
25 terms of catalog, that the 2006 dated

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2 one is the next one produced. I'm  
3 going by recollection, not by the  
4 documents that have been produced.

5 MR. FRIEDMAN: And there is no  
6 additional price list that has been  
7 produced by Gold Star other than that  
8 marked as R-122?

9 MR. THOMPSON: I don't have a  
10 present recollection. I'd have to go  
11 and look. I don't remember.

12 MR. FRIEDMAN: Does the witness?

13 BY MR. FRIEDMAN:

14 Q. Do you know whether an additional  
15 catalog or price list was provided to counsel  
16 for this litigation?

17 A. I can't recall. But we tried to  
18 provide counsel with -- as far as price lists  
19 and invoices, with the latest document -- I'll  
20 say, the oldest documents that we had. And,  
21 you know, I would not necessarily volunteer  
22 the '3 and '4 and '5 and '6 price lists.

23 Q. So --

24 MR. THOMPSON: For the record,  
25 again, going by memory, I'm not



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2 entirely certain they have been  
3 requested during discovery. So if they  
4 weren't requested, they wouldn't have  
5 been produced because they weren't  
6 stamped.

7 Q. Is it your testimony, Ms. Pincow,  
8 that Gold Star did have price lists in each of  
9 the subsequent years to this 2001-2002 price  
10 list?

11 A. Yes.

12 Q. Were there also catalogs for each  
13 of those years?

14 MR. THOMPSON: Each of which years?

15 Q. 2001, 2002 and subsequent.

16 A. No.

17 Q. So when was the next catalog?

18 MR. THOMPSON: I'm sorry. The next  
19 compared to what?

20 MR. FRIEDMAN: Compared to R-4.

21 A. The 2006 is the next printed  
22 catalog that was created.

23 Q. So with respect to the 2001-2002  
24 price list which is R-122, why does it not  
25 reflect marinated vegetables being sold under

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2 a Babushka's Recipe label?

3 A. It could be that we sold out of the  
4 product, we only had one purchase and didn't  
5 do so well with the item and decided not to  
6 carry it.

7 Q. Is that, in fact, what happened?

8 A. To the -- in fact, that is how my  
9 memory reflects the situation.

10 Q. Are marinated vegetables under  
11 Babushka's Recipe label reflected in Gold  
12 Star's 2002-2003 price list?

13 A. No.

14 Q. Same question for 2003-2004.

15 A. I wouldn't remember.

16 Q. Do you remember for 2004-2005?

17 A. I've only used the Babushka's  
18 Recipe for marinated vegetables once.

19 Q. In R-122, can you please take a  
20 look at --

21 A. R-122?

22 Q. Yes. The bottom bears Bates stamp  
23 number 049, and at the top there is the  
24 page number 15.

25 A. Okay.

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2 Q. Up in the upper right-hand, we see  
3 the Old Salzberg cheese.

4 A. Right.

5 Q. Is this price list the first time  
6 that Gold Star listed Old Salzberg cheese in  
7 its price list?

8 A. I'm sure that it's not.

9 Q. My recollection is that it is not  
10 reflected in the catalog, R-4, that we looked  
11 at previously?

12 A. That's correct.

13 Q. Do you recall when Old Salzberg  
14 cheese was first sold by Gold Star?

15 A. I believe it's as early as the year  
16 2000.

17 Q. How did it come about that Gold  
18 Star began selling a cheese with the name of  
19 Old Salzberg?

20 A. Gold Star knew of the popularity of  
21 the product called Salzberg cheese from  
22 Austria. It wanted to emulate the flavor of  
23 that Austrian cheese, and it decided to create  
24 a product that would have certain flavors of  
25 an imported cheese. So it had requested

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2 Bunker Hill Cheese to create an item that  
3 would have certain flavors, and they did.  
4 That's how Old Salzberg came about. The  
5 design of the label was produced in-house.

6 Q. By who was it produced in-house?

7 A. By me.

8 Q. Was there anything that you used as  
9 a model in designing your label?

10 A. Only some images that reflected  
11 European countryside or mountainside.

12 Q. What is the significance to you of  
13 the term "old" within the name "Old Salzberg"?

14 A. If you look at the image, it  
15 depicts an old mountainside with like an old  
16 railroad passage running through the  
17 mountainside. It sort of reflects the ancient  
18 part of the European mountainside, so I used  
19 the word "old" to imply old time, old flavor.

20 Q. And as coming from Europe?

21 A. As coming from Europe.

22 Q. So, was there a geographic  
23 association that you intended for this  
24 product?

25 A. I wanted to create that feel, yes.

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2 Q. For what geographic location?

3 A. Swiss Alps, Austrian Alps.

4 Anything European.

5 Q. Such as where the City of Salzburg  
6 is in Austria?

7 A. I've never been to the City of  
8 Salzburg. I couldn't tell you if it actually  
9 looks like that.

10 Q. Did you obtain permission from the  
11 owners of the "Salzburg" mark to use the name  
12 "Old Salzburg" on your product?

13 A. I was not aware that the mark  
14 belonged to anyone or was trademarked at the  
15 time. So the answer to your question was no,  
16 I did not obtain the permission.

17 Q. Since that time, have you obtained  
18 the permission of the trademark owner?

19 A. No, I have not.

20 MR. FRIEDMAN: Off the record.

21 (Discussion off the record.)

22 (Petitioner Exhibit 216, Salzburg  
23 Cheese, Walker Foods Jersey City,  
24 original yellow packaging, marked for  
25 identification, as of this date.)

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2 MR. FRIEDMAN: For the record, what  
3 has been marked as P-216 is the  
4 original packaging, a photocopy of  
5 which was previously marked as  
6 Petitioner Exhibit 2004 during the  
7 deposition of Lisa Troyer on  
8 October 14, 2008.

9 BY MR. FRIEDMAN:

10 Q. I ask you, Ms. Pincow: Was this the  
11 packaging for a product that you sought to  
12 emulate in creating International Gold Star's  
13 Old Salzberg cheese?

14 A. I don't believe it is.

15 Q. Was there a different product  
16 called "Salzberg Cheese" that you were seeking  
17 to emulate?

18 A. I remember the product called  
19 "Salzberg Cheese" having a different kind of  
20 label.

21 Q. Was it from the same manufacturer  
22 as we see on this on this Exhibit 216?

23 A. I don't recall.

24 Q. Did you undertake any research at  
25 all prior to undertaking sales of

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2 International Gold Star's "Old Salzberg  
3 cheese" to see if any other entity had the  
4 trademark for it?

5 A. No.

6 Q. Did Lisa Troyer ask that you  
7 undertake a search?

8 A. No.

9 Q. Did anybody at Bunker Hill request  
10 that International Gold Star undertake a  
11 search?

12 A. No.

13 Q. To the best of your knowledge, did  
14 anybody at Bunker Hill undertake a search to  
15 see whether "Salzberg" was a trademark owned  
16 by an entity already for cheeses?

17 A. I don't know.

18 Q. I'll direct your attention back to  
19 R-122, the price list, to page 15 which you  
20 had open.

21 A. Okay.

22 Q. On the bottom right, what is the  
23 product being sold under the UPC code 42025?

24 MR. THOMPSON: I object to calling  
25 that a UPC code. We have not

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2 established that's a UPC code.

3 Q. Can you please tell me what the  
4 numbers 42025 refer to in the bottom right of  
5 page 15 of R-122?

6 A. It refers to yogurt Havarti cheese,  
7 which was actually Babushka label Havarti  
8 cheese. As it is shown in our Respondent's 4  
9 on page 20. This is definitely a mistake on  
10 the image being presented on this price list.

11 Q. Let the record reflect you are  
12 pointing to the bottom right box of page 15 of  
13 R-122.

14 A. That's correct.

15 Q. Which is the 2001-2002 price list.

16 A. That's correct. Should I clarify?

17 Q. Please clarify.

18 A. The 42025 is actually the number  
19 that refers to Babushka's Recipe Havarti  
20 cheese.

21 As you can see from our prior  
22 catalog -- I should say from our catalog,  
23 Respondent's 4, on page 20, the same item  
24 number, 42025 is assigned to Babushka's  
25 Havarti cheese, yogurt cheese. And if you



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2 look at that same page 20 of that catalog and  
3 you look at item 42026, it would be butter  
4 cheese.

5 And I want to state that the image  
6 of the product --

7 MR. THOMPSON: Since counsel is  
8 leaning over to look at the document,  
9 why don't you show him where you were  
10 referring to.

11 A. 42026 is butter cheese  
12 (indicating).

13 Q. Is there a picture for it?

14 A. No, there isn't a picture.

15 MR. THOMPSON: That's in  
16 Respondent's 4 you're looking at?

17 MR. FRIEDMAN: Correct.

18 A. The mistake made on the price list,  
19 Registrant 122, the mistake made on that price  
20 list is that the image, the image is of the  
21 butter cheese in the wrong -- with the wrong  
22 item number. I hope I made that clear.

23 Q. I believe you're stating that  
24 42025, that the product depicted is, in fact,  
25 not yogurt Havarti cheese but butter cheese?

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2 A. Correct.

3 Q. And under what label was that  
4 butter cheese sold?

5 A. Sold? Under the Bunker Hill label.  
6 Actually, Heini's label. A product of Bunker  
7 Hill Cheese. You can see the word "Heini's"  
8 right above the heart.

9 MR. THOMPSON: And you're referring  
10 to Exhibit 122, page 15, lower  
11 right-hand corner, the photograph which  
12 bears the caption "Havarti cheese  
13 42025."

14 Q. You say you can see the term  
15 "Heini" is there?

16 A. Sure. Can I --

17 MR. THOMPSON: Sure. Go around and  
18 point it out to him.

19 (Witness complying.)

20 A. Right here (indicating).

21 MR. FRIEDMAN: The witness was  
22 pointing to some lettering above the  
23 bottommost heart shape on the product.

24 MR. THOMPSON: Did you want to find  
25 something in the other catalog?

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2 THE WITNESS: Yes. If I can have a  
3 moment.

4 (Witness reviewing document.)

5 MR. FRIEDMAN: Okay. The witness  
6 is currently looking at what catalog?

7 MR. THOMPSON: Let's see if she  
8 finds anything in it.

9 THE WITNESS: '6.

10 MR. FRIEDMAN: The 2006 catalog.

11 (Witness reviewing document.)

12 MR. FRIEDMAN: I haven't asked the  
13 witness to look for any documents. I  
14 don't understand what she is --

15 MR. THOMPSON: She is trying to  
16 explain what was going on.

17 THE WITNESS: Off the record, on  
18 the record? I was trying to find an  
19 image of the same product in a bigger  
20 format so that you can see the word  
21 "Heini" because you seem to be  
22 questioning that. I can clearly see  
23 that it says that here.

24 MR. THOMPSON: Okay.

25 BY MR. FRIEDMAN:

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2 Q. Isn't it possible, Ms. Pincow, that  
3 the catalog marked as R-4 was created after  
4 this 2001-2002 price list insofar as the image  
5 at 42025 has been corrected?

6 A. Okay. I need to hear the question  
7 again.

8 Q. She'll read it back to you.  
9 (Record read.)

10 A. It's not possible.

11 Q. How do you know?

12 A. How do I know?

13 Q. Yes.

14 A. I would have -- if this were  
15 created at a later point, I would have the Old  
16 Salzberg product in there.

17 MR. THOMPSON: And by "this,"  
18 You're referring to Registrant 4?

19 THE WITNESS: Right.

20 A. I can go through other items and  
21 probably point out other things in the catalog  
22 that would reaffirm my belief that this was  
23 created -- by "this," I mean, R-4 was created  
24 prior to the price list of 2001-2002.

25 MR. THOMPSON: Which is Registrant

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2 122.

3 Q. That's sufficient for the moment.

4 You've been present, Ms. Pincow, at  
5 all of the depositions during this Respondents  
6 testimony period, correct?

7 A. Respondents? Yes.

8 Q. And you were present during the  
9 deposition of Butch Miller?

10 A. Yes.

11 Q. And he pulled out a Gold Star  
12 private label for farmer's cheese that did not  
13 say "Babushka's Recipe"?

14 A. He did.

15 Q. Was that label in use by  
16 International Gold Star for farmer's cheese?

17 A. It could have been in the years '96  
18 and '97.

19 Q. Isn't that the label that was  
20 applied to what has the number 41502 in  
21 Respondent's 4 on page 22?

22 (Witness reviewing document.)

23 MR. THOMPSON: I would just ask if  
24 the witness could refer to the document  
25 that you're referring to, which I

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2 believe has been marked, so that she  
3 can make an accurate representation of  
4 what was and wasn't.

5 MR. FRIEDMAN: Before I show it to  
6 her, I would like to test her  
7 recollection.

8 A. I can't really read what it says on  
9 the label. Maybe you can. Maybe you have.  
10 But I can't read what it says on that label.

11 What I do know is that when we were  
12 initially selling and printing the label, the  
13 farmer's cheese label, we had the words  
14 "Babushka's Recipe" but not the image of  
15 Babushka on the farmer's cheese that we were  
16 purchasing from Queensboro Farms since 1996.

17 Q. But you were also simultaneously  
18 also selling dairy products under  
19 International Gold Star's private label  
20 without Babushka's Recipe on it, true?

21 A. True.

22 Q. Do you have anything to tell you  
23 what is on the label of 41502 in  
24 Respondent's 4 that is in front of your?

25 A. What do you mean do I have anything

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2 to tell you?

3 Q. Is there any way that you can check  
4 to see what is on that label?

5 A. I'm trying to read the label, and  
6 I've already testified that we were using the  
7 words "Babushka's Recipe" on the labels that  
8 we affixed to the product from Queensboro  
9 Farms.

10 Q. You were also using the labels for  
11 International Gold Star at that time that did  
12 not say "Babushka's Recipe", true?

13 MR. THOMPSON: Are you referring to  
14 farmer's cheese's specifically or just  
15 products in general?

16 MR. FRIEDMAN: Dairy products in  
17 general.

18 A. The other products in general, the  
19 label was not printed by Gold Star. So when  
20 you go back to the item 41100 and item 41500  
21 that show labels with "Gold Star" logo on  
22 them, these were not in-house-generated  
23 labels.

24 The only label that was generated  
25 in-house with "Babushka" name would be the

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2 farmer's cheese produced by Queensboro Farms.

3 Q. Wasn't Gold Star also producing  
4 labels at that time in the same manner that  
5 did not say "Babushka's Recipe"?

6 A. No.

7 Q. Take a look, please, at  
8 Petitioner's Exhibit 213.

9 (Witness reviewing document.)

10 Q. The witness is currently looking at  
11 P-213 which was marked during the deposition  
12 of Butch Miller on October 20, 2008.

13 I'm directing your attention to the  
14 large label in the middle of the page. Who  
15 created this label?

16 A. I don't know.

17 Q. It could have been Gold Star?

18 A. I don't want to guess.

19 Q. You just don't know?

20 A. I don't know.

21 Q. So by looking at this label, you  
22 cannot tell whether this was created on the  
23 machine that Gold Star was using?

24 A. I can't.

25 Q. Do you know how this label ended up



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2       in the files of Queensboro Farms?

3           A.    I don't.

4           Q.    Was this label in use at any time  
5       by Gold Star for farmer's cheese?

6           A.    I don't remember that we ever used  
7       this particular label.

8           Q.    Before moving on.  If you would  
9       just compare that label in the middle of P-213  
10      to the label on R-4 for item 41502.  Is that  
11      the same label?

12           MR. THOMPSON:  On page 22.

13           MR. FRIEDMAN:  Thank you.

14           A.    It is very hard to tell because the  
15      label in my catalog on page 22, R-4, is almost  
16      illegible.  But I could only see that both  
17      labels have nutrition facts to the right side.  
18      That is consistent between the two labels.

19           Q.    Isn't it true that the general  
20      layout of the two labels is the same?

21           A.    In general?  Yes.

22           Q.    Looking at 41502 through a  
23      magnifying glass, the labels do appear to be  
24      identical.

25                   How was this label provided to the

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2       printers for R-4?

3           A.     I never said it was provided to the  
4       printers.

5                   MR. THOMPSON:   I will point out.  
6       When you make the representation what  
7       it looks like through a magnifying  
8       glass, that's your statement because  
9       you are the one looking at it through a  
10      magnifying glass, not the witness  
11      looking through it.

12                  MR. FRIEDMAN:   That's correct.

13          Q.     How were these images provided to  
14      the printer of this catalog, R-4?

15          A.     The images were taken by one of the  
16      employees of Gold Star. All the images were  
17      taken in-house.

18          Q.     By whom?

19          A.     An employee I had at the time. I  
20      don't recall exactly whether it was Michael or  
21      someone else.

22          Q.     What is Michael's last name?

23          A.     Frenkel.

24          Q.     Is he currently employed at Gold  
25      Star?

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2 A. No.

3 Q. When did he leave?

4 A. Years ago. I can't remember the  
5 exact date.

6 Q. Were the images captured by digital  
7 photography?

8 A. Digital photography, yes. I  
9 believe there was a digital camera.

10 Q. Does Gold Star still have those  
11 files that were created in-house?

12 A. No.

13 Q. When were they destroyed?

14 A. I don't know.

15 Q. On page 22 of R-4, there is an item  
16 that has the number 40500, what is that  
17 product?

18 MR. THOMPSON: What was the number?

19 THE WITNESS: 40500.

20 A. 'Chocolate tvorog', spelled  
21 T-V-O-R-O-G.

22 Q. And under what label was that  
23 product sold?

24 A. It is not Gold Star's private  
25 label. I believe the label belonged to Emkay

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2 Cheese Company.

3           Q.    How did this product end up being  
4 included in the Gold Star catalog?

5           A.    Can you explain your question?   How  
6 did it come to be included?

7           Q.    You testified that that is a label  
8 sold by Emkay, correct?

9           A.    I believe so.   Not 100 percent  
10 certain.   I believe it was an Emkay label.

11          Q.    Did Gold Star have authority from  
12 Emkay to advertise that product in a Gold Star  
13 catalog?

14          A.    We advised all of our suppliers  
15 that we will be printing a catalog.   So  
16 everyone was put on notice that the catalog  
17 was being printed.

18          Q.    Is it the case, then, that Emkay  
19 was a supplier of Gold Star in the year 2000  
20 when this catalog was created?

21               MR. THOMPSON:   By "this catalog,"

22               R-4?

23               MR. FRIEDMAN:   Correct.

24          A.    Yes, I would assume so.

25          Q.    Does Gold Star continue to do

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2 business with Emkay?

3 A. Not anymore.

4 Q. When did Gold Star stop doing  
5 business with Emkay?

6 A. I believe last year.

7 Q. What were the circumstances whereby  
8 Gold Star stopped doing business with Emkay  
9 last year?

10 A. Emkay had financial difficulties  
11 and ceased its operations.

12 Q. Do you know who designed the label  
13 that is 40500 on R-4?

14 A. No.

15 Q. I'm going to ask you to refer back  
16 now to P-213.

17 A. Uh-huh.

18 Q. There is a label on the upper-left.  
19 It says "sour cream."

20 A. Okay.

21 Q. Now, that is sold under the  
22 International Gold Star private label; is that  
23 correct?

24 MR. THOMPSON: Can I have that read  
25 back?

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2 (Record read.)

3 MR. THOMPSON: You put that in the  
4 present tense. So you mean today?

5 MR. FRIEDMAN: Let me rephrase the  
6 question.

7 Q. Was this label ever in use by Gold  
8 Star?

9 A. To the best of my knowledge, not.

10 Q. Was sour cream sold by Gold Star  
11 under an International Gold Star private  
12 label?

13 A. No.

14 Q. Not at any time?

15 A. Not at any time.

16 Q. Do you know who printed this label?

17 A. No.

18 Q. Do you know whether it was printed  
19 in-house by Gold Star?

20 A. It was not printed in-house by Gold  
21 Star.

22 Q. How are you able to identify that?

23 A. Because we never had sour cream  
24 under a private label.

25 Q. Referring to the label on the upper

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2 right of P-213 for pot cheese, was that label  
3 ever in use by International Gold Star?

4 A. No.

5 Q. Do you know who printed this label?

6 A. No.

7 Q. Do you know how it wound up in the  
8 files of Queensboro Farms?

9 A. No.

10 Q. Can you think of anybody that might  
11 have had a motive to create such a label and  
12 submit it to Queensboro Farms?

13 A. I will not --

14 MR. THOMPSON: Objection to form.

15 A. -- speculate.

16 MR. THOMPSON: My objection to form  
17 stands.

18 MR. FRIEDMAN: That's fine.

19 Q. Can you --

20 A. I will not speculate.

21 Q. So you don't know of anybody who  
22 would have a motive to do such a thing?

23 A. No.

24 Q. Can you think of anybody who would  
25 have a motive to print the large label in the

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2 middle of P-213 for farmer's cheese and submit  
3 it to Queensboro Farms?

4 A. The answer is no.

5 MR. THOMPSON: I also object  
6 because we don't know if that, in fact,  
7 was a label or just a square piece of  
8 paper that's on the document that we've  
9 seen. We don't know if it was, in  
10 fact, a label or not.

11 Q. Now, P-210, for the record, is the  
12 original labels, that is, the labels in its  
13 original form provided by Gold Star last week  
14 as representing the current labels in use by  
15 Gold Star for farmer's cheese.

16 Do you agree with that statement,  
17 Ms. Pincow?

18 A. I do.

19 MR. THOMPSON: I'll just state for  
20 the record I believe them to be the  
21 originals also of the document that was  
22 produced under Bates number Gold 00002  
23 and previously marked as Respondent's  
24 117.

25 Q. So is this label in use by Gold



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2 Star today for farmer's cheese?

3 A. Yes.

4 Q. Have sales under this label been  
5 made within the last several months?

6 A. Yes.

7 Q. Were sales made within the State of  
8 New York within the last several months?

9 A. Most likely.

10 Q. Within the last two years, would  
11 the answer be definitely?

12 A. Definitely.

13 Q. Does farmer's cheese contain any  
14 amount of trans fat?

15 A. I don't know.

16 Q. Is it not a requirement that trans  
17 fat content, if any, be set forth in the  
18 nutrition facts section of the label?

19 A. I believe it is a recently  
20 implemented requirement. By "recently," I  
21 mean within the last 12 months or so.

22 Q. Is Gold Star in compliance with  
23 that requirement?

24 A. You want my expert opinion if the  
25 farmer's cheese, indeed, has trans fat, then

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2 we should amend the nutritional facts label on  
3 this product. But I don't know for a fact  
4 that it does.

5 Q. And you should also identify  
6 Queensboro Farms as the manufacturer of the  
7 product; true?

8 A. If it's required on the bulk  
9 product that I sell, the three-pound loaf,  
10 then I will have to do so.

11 Q. The three-pound loaf of farmer's  
12 cheese?

13 A. Right. We do not sell the retail  
14 product any longer, which is the one pound  
15 that we used to sell.

16 Q. Would you also need to amend this  
17 label to provide what grade of pasturization  
18 this farmer's cheese is?

19 MR. THOMPSON: Are you attempting  
20 to ask her a legal conclusion in that  
21 question.

22 MR. FRIEDMAN: I'm attempting to  
23 ask her opinion, the best of her  
24 knowledge as vice president of  
25 International Gold Star.

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2 MR. THOMPSON: You haven't  
3 established that she has knowledge of  
4 when a labeling of Grade A or otherwise  
5 would be required. Do you want to lay  
6 that foundation?

7 Q. Is such a labeling required,  
8 Ms. Pincow, to the best of your knowledge?

9 A. I didn't know that until the  
10 proceedings and hearing the testimony of the  
11 prior witnesses.

12 Q. Did Queensboro Farms ever  
13 manufacture yogurt cheese for International  
14 Gold Star?

15 A. No.

16 Q. Did Bunker Hill ever manufacture  
17 any yogurt cheese other than Havarti cheese  
18 for International Gold Star?

19 A. Yes.

20 Q. During what time period, please?

21 A. Our relationship with Bunker Hill  
22 goes back to 1996. So I would say starting  
23 with 1996, Bunker Hill was selling different  
24 yogurt cheeses to International Gold Star.

25 Q. But those cheeses were under a

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2 Heini's label, correct?

3 A. Some.

4 Q. When, if ever, did Gold Star  
5 commence affixing "Babushka's Recipe" to  
6 yogurt cheese manufactured by Bunker Hill  
7 other than Havarti cheese?

8 A. Other than Havarti cheese? 1998.

9 Q. What label was that?

10 A. We started off with the labels that  
11 would be on the products that are -- that were  
12 more popular. So it would be the original  
13 yogurt cheese, herb and garlic, smoked and  
14 vegetables. There were four labels that we  
15 affixed the label to with Babushka's label.

16 Q. I believe you testified earlier in  
17 this proceeding that Gold Star did not sell  
18 yogurt, herb and garlic cheese?

19 A. If I did, it was a mistake.

20 Q. I believe you also testified that  
21 International Gold Star did not sell the  
22 smoked vegetable yogurt cheese under the  
23 Babushka's Recipe?

24 A. There is no smoked vegetable.  
25 There is smoked, and then there is vegetable.

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2 Two separate flavors.

3 Q. My mistake.

4 I believe you testified that  
5 International Gold Star did not sell the  
6 vegetable yogurt cheese under the Babushka's  
7 Recipe label?

8 A. If I did, I stand corrected.

9 Q. Is there any Babushka's Recipe  
10 yogurt cheese other than Havarti cheese  
11 reflected in R-4?

12 A. In R-4?

13 MR. THOMPSON: While she's looking,  
14 can I ask you to read that back?

15 (Record read.)

16 (Witness reviewing document.)

17 A. No.

18 Q. Same question with respect to the  
19 2001-2002 price list.

20 (Witness reviewing document.)

21 A. Other than Havarti you said, right?

22 Q. Yes.

23 A. Because I know for a fact that the  
24 yogurt Havarti in this price list is referring  
25 to Babushka label, yogurt Havarti cheese.

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2 That would be item 42025.

3 Q. And the page number, please?

4 A. Page number 14.

5 Q. Page 14, and this is Exhibit R-122.

6 I'm sorry. Will you please give me  
7 that number one more time?

8 A. Okay. Page number 14, and the item  
9 number is 42025, yogurt Havarti. That product  
10 was sold under Babushka's Recipe label.

11 Q. But that is Havarti cheese?

12 A. Right.

13 Q. So any yogurt cheese other than  
14 Havarti cheese sold under the Babushka's  
15 Recipe --

16 A. No.

17 Q. -- label on this price list?

18 A. No.

19 Q. Is it fair to say that if you were  
20 selling it at the time you created this price  
21 list, you would have included it in the price  
22 list?

23 A. It's a fair statement.

24 Q. Is it also fair to say that you  
25 would have included it in the catalog marked

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2 as R-4?

3 A. It's difficult to answer that  
4 question because this catalog was being  
5 developed through the year '99 and 2000, and  
6 we were switching from one type of label and  
7 products to others. So I can't answer that  
8 question with a degree of certainty.

9 Q. The machine that International Gold  
10 Star has that is capable of printing labels,  
11 could you tell me when that machine was  
12 acquired?

13 A. No.

14 Q. You don't know?

15 A. I don't remember.

16 Q. Is the same machine in use today  
17 that was in use back in 1998?

18 A. No.

19 Q. It's a different machine now?

20 A. It's a different machine.

21 Q. When was it replaced?

22 A. I can't remember.

23 Q. What was the name of the old  
24 machine, that is the brand name?

25 A. I don't remember.

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2 Q. Do you remember who manufactured  
3 the machine?

4 A. No.

5 Q. Do you remember how it was that  
6 Gold Star acquired it?

7 A. I believe my husband acquired it.

8 Q. We're talking now about the old  
9 one?

10 A. Both.

11 Q. Have there been a total of two  
12 machines since 1998?

13 A. I believe there were two, but there  
14 could have been more.

15 MR. THOMPSON: We are referring to  
16 the label-making machines?

17 MR. FRIEDMAN: Yes.

18 (Petitioner Exhibit 217, Copy of  
19 International Gold Star Check No.  
20 0004852, GOLD0005-06, marked  
21 for identification, as of this date.)

22 (Petitioner Exhibit 218,  
23 International Gold Star Check  
24 No. 0004960, GOLD0003-04, marked for  
25 identification, as of this date.)



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2 MR. FRIEDMAN: P-217, for the  
3 record, is two pages and has Bates  
4 numbers GOLD0005 to 0006 at the bottom.

5 BY MR. FRIEDMAN:

6 Q. This document was produced by Gold  
7 Star. I don't know what for. Can you please  
8 tell me what was purchased with this check?

9 A. Now that I see the name Glenroy, I  
10 believe that is the name of the printing --  
11 the company that either produced the printing  
12 machine or provided us with the labels for the  
13 printing machine.

14 Q. Is that your signature on P-217?

15 A. Yes, it is.

16 Q. What does this purchase represent?  
17 What was purchased?

18 A. I can't tell. I can't tell. But  
19 judging by the amount.

20 Q. The amount of \$671.19?

21 A. Yes, I doubt it was for the machine  
22 because the machine was too expensive. That's  
23 why...

24 Q. Do you know why this cancelled  
25 check was produced in this litigation, this

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2 proceeding?

3 A. I don't remember why we produced  
4 this document.

5 Q. I'm going to ask you now to please  
6 take a look at what's been marked as P-218  
7 which, for the record, has Bates stamp numbers  
8 GOLD0003 to 0004 at the bottom.

9 Is that your signature on this  
10 check?

11 A. Yes.

12 Q. What did Gold Star purchase with  
13 this check?

14 A. I don't know. But Peerless Press  
15 is the company that used to print our price  
16 lists and order sheets.

17 Q. Are they still in existence?

18 MR. THOMPSON: You're asking if  
19 Peerless Press is still in existence or  
20 if the price lists and order sheets are  
21 still in existence?

22 MR. FRIEDMAN: I was referring to  
23 Peerless Press.

24 A. I think they are. I believe they  
25 are.

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2 Q. Does Gold Star still do business  
3 with them?

4 A. Currently, we only buy business  
5 cards, we order business cards through them  
6 and we haven't ordered any in the past two  
7 years, so I'm not in business with them as of  
8 right now.

9 Q. Did Peerless Press create the  
10 2001-2002 price list?

11 A. Yes.

12 Q. Was Peerless Press creating price  
13 lists for International Gold Star back in  
14 1999, which is the year that is set forth on  
15 this check?

16 A. Probably. Not creating; printing.

17 Q. Does Gold Star have any of those  
18 price lists still in its files?

19 A. If I only did.

20 Q. Why was this cancelled check  
21 produced in this proceeding?

22 A. I can't answer that now. I just  
23 don't remember now. There must have been a  
24 purpose.

25 MR. FRIEDMAN: Do you want to take

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2 a few minutes?

3 MR. THOMPSON: It is 12:23. Do you  
4 want to take lunch or take a few  
5 minutes?

6 MR. FRIEDMAN: Off the record.

7 (Luncheon recess taken at 12:23 p.m.)

8  
9 - - -

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2 A F T E R N O O N S E S S I O N

3 (Time noted: 1:32 p.m.)

4 G A L I N A P I N C O W, resumed as a  
5 witness and testified as follows:

6 CONTINUED EXAMINATION BY

7 MR. FRIEDMAN:

8 MR. THOMPSON: Before we get  
9 started, I believe Ms. Pincow wants --  
10 I don't want to put words in her  
11 mouth -- to comment on some of the  
12 answers she gave earlier today.

13 THE WITNESS: Yes. I want to make  
14 a statement that in my testimony prior  
15 to breaking for lunch, I stated that  
16 September 1999 was not the first date  
17 of our application for Babushka's  
18 Recipe. Since we had quite a few  
19 changes to Babushka's Recipe and  
20 additions, I was confused. That  
21 appears to be the first application for  
22 Babushka's Recipe. We have checked  
23 that it is the only -- the first one.

24 BY MR. FRIEDMAN:

25 Q. So, the application that we marked

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2 earlier today as an exhibit --

3 MR. THOMPSON: 215.

4 Q. -- P-215, was the first application  
5 filed by International Gold Star for  
6 Babushka's Recipe?

7 A. That's correct.

8 Q. And that application, P-215, was  
9 signed by you on or about November 11, 1999;  
10 true?

11 A. True.

12 Q. In that application, you supply a  
13 date of first use in interstate commerce of  
14 September 1999; true?

15 A. True.

16 Q. Would it be fair to say that your  
17 memory of events in September 1999 was more  
18 fresh in November of 1999 than it is today?

19 A. Can you rephrase that?

20 Q. You signed the application in  
21 November of 1999, and at that time you said  
22 you first started using Babushka's Recipe on  
23 dairy products two months earlier.

24 A. Correct.

25 Q. Your memory of events from two

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2 months ago is more fresh than your memory of  
3 events from nine years ago, right?

4 MR. THOMPSON: Objection.

5 Argumentative.

6 Q. You can answer.

7 A. I guess if you're not under stress  
8 or there are other circumstances that may  
9 cause you to remember something later better  
10 than two months earlier.

11 Q. At the time you signed this  
12 application, P-215, in November of 1999, were  
13 you under stress?

14 A. I don't remember.

15 Q. Were you under duress?

16 A. I don't remember. I could have  
17 been.

18 Q. Did anybody say to you that you  
19 were required to sign this application in the  
20 form that it's in?

21 A. I know that I was supposed to sign  
22 this application.

23 Q. You understood that you were  
24 signing a document under oath when you signed  
25 it; true?

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2 A. I read the document and I  
3 understood the nature of the document.

4 Q. And you did that before you signed  
5 it?

6 A. Yes.

7 Q. Do you now wish to amend  
8 information that's in the document?

9 A. If I could, I would.

10 Q. What would that amendment be?

11 A. It would be the amendment to say  
12 that the products with the name Babushka's  
13 Recipe label were, in fact, what you  
14 classified as in sales in commerce prior to  
15 September 1999.

16 Q. So why didn't you have that stated  
17 in the application before you signed it?

18 A. I would say that given that I'm  
19 signing-off quite a few documents throughout  
20 the day, I did not properly read or understood  
21 the seriousness of the nature of what I was  
22 signing as far as the date, the actual usage  
23 of the Babushka's Recipe label.

24 I did not understand at the time  
25 also the importance and significance of first



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2 usage date, as I do now.

3 Q. In Interrogatory responses in this  
4 action that you signed, you state a date of  
5 April 7, 1998 as the earliest date upon which  
6 you would rely in this proceeding?

7 MR. THOMPSON: I object. I don't  
8 believe that's an accurate statement of  
9 what the interrogatory statements say.

10 Off the record.

11 (Discussion off the record.)

12 MR. THOMPSON: I withdraw my  
13 objection.

14 MR. FRIEDMAN: This will be P-219.

15 (Petitioner Exhibit 219,  
16 Registrant's Responses to Petitioner's  
17 Interrogatories, marked for  
18 identification, as of this date.)

19 MR. FRIEDMAN: What's been marked  
20 as P-219 is 21 pages stapled together  
21 under the caption of this proceeding  
22 and with the title of Registrant's  
23 Responses to Petitioner's  
24 Interrogatories.

25 BY MR. FRIEDMAN:

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2 Q. You have before you P-219,  
3 Ms. Pincow. I'm going to ask that you please  
4 turn to page 20.

5 (Witness complying.)

6 A. Okay.

7 Q. Is that your signature?

8 A. Yes.

9 Q. Did you understand, when you signed  
10 this document, that you were taking an oath  
11 under the penalty of perjury that the  
12 information contained herein is true and  
13 correct?

14 A. I would assume that I did.

15 Q. Did you read these Interrogatory  
16 responses before signing the declaration?

17 A. Probably did.

18 Q. I'd ask that you please look at  
19 page 16, Interrogatory No. 27.

20 (Witness complying.)

21 Q. The interrogatory states, "For  
22 purposes of establishing priority of use,  
23 identify the earliest date upon which  
24 Registrant intends to rely in this proceeding  
25 with respect to its use of registrant's mark

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2 under any mark that includes the term  
3 'Babushka' or 'Babushka Note' and produce all  
4 documents relating to such usage."

5 Do you see that interrogatory?

6 A. Yes.

7 Q. And do you see the response states  
8 "shortly after April 7, 1998"?

9 A. I do.

10 Q. Now, what is it that happened  
11 shortly after April 7, 1998 that you were  
12 referring to?

13 A. The labels that were produced for  
14 Babushka's Recipe yogurt cheeses.

15 Q. And April 7, 1998 is the date that  
16 certain records reflect an order was placed  
17 with Jes Printing?

18 A. Correct.

19 Q. So, is that the event upon which  
20 you rely in this response?

21 A. Yes.

22 MR. THOMPSON: I'm sorry. Can I  
23 hear that back?

24 (Record read.)

25 Q. When did International Gold Star

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2 begin selling meats under the "Babushka's  
3 Recipe" mark?

4 A. November 2003.

5 Q. So that prior to November 2003,  
6 International Gold Star was not selling meats  
7 under the "Babushka's Recipe" mark?

8 A. Correct.

9 Q. You testified earlier in this  
10 proceeding that International Gold Star has a  
11 policy of retaining documents for seven years;  
12 is that right?

13 A. That's right.

14 Q. I'd like to just clear one thing  
15 up.

16 Towards the very beginning of your  
17 testimony, you mentioned something about there  
18 being two corporations with similar names  
19 International Gold Star. Are there, in fact,  
20 two International Gold Star corporations?

21 A. There are.

22 Q. And the corporation that has signed  
23 off on the trademark application wherein you  
24 signed as vice president, in what state is  
25 that corporation incorporated?

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2 A. I believe it's incorporated in the  
3 State of Delaware.

4 Q. During your testimony in this  
5 action, when we have referred to International  
6 Gold Star, were you referring to that Delaware  
7 corporation?

8 A. I would say that -- I don't really  
9 separate between the two entities in  
10 respect -- in respect to certain matters.

11 Q. So what entity is there in addition  
12 to the Delaware corporation?

13 A. There is an entity called  
14 International Gold Star, Inc.

15 Q. As opposed to International Gold  
16 Star Trading Corp.?

17 A. Correct.

18 Q. And International Gold Star, Inc.,  
19 is that a New York corporation?

20 A. Yes.

21 Q. And do you have a position in that  
22 corporation?

23 A. Yes, I do.

24 Q. What is your position?

25 A. VP.

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2 Q. Are you a shareholder of that  
3 corporation?

4 A. No.

5 Q. Is Robert Pincow the sole  
6 shareholder?

7 A. Yes, he is.

8 Q. What is it that International Gold  
9 Star, Inc. does? What is its business?

10 A. The business of International Gold  
11 Star, Inc. is import/export, distribution of  
12 specialty food products.

13 Q. Is that the same business as  
14 International Gold Star Trading Corp.?

15 A. Not anymore.

16 Q. Please explain.

17 A. International Gold Star Trading  
18 Corp. is now an entity that holds only certain  
19 assets such fixed assets, such as any other  
20 assets such as trademarks, copyrights and  
21 things of that nature.

22 Q. When did this change come about?

23 A. Several years ago. I can't give  
24 you the exact year.

25 Q. Are there any additional related

1           G. Pincow - Confidential  
2 corporations?

3           A.    Do you mean with the same  
4 ownership?

5           Q.    Affiliates, yes.

6           A.    There is the 570 Smith Street  
7 Reality Corp., which is the entity that owns  
8 the property -- properties under which  
9 International Gold Star Trading Corp. and  
10 International Gold Star, Inc. are located.

11                   There is the Gold Star Smoked Fish  
12 Company which is owned by Robert Pincow which  
13 is located in the premises adjacent to  
14 International Gold Star, Inc.

15           Q.    Is that the Lorraine Street  
16 location?

17           A.    No. That's 590 Smith Street.

18           Q.    In Brooklyn?

19           A.    I think it's 590 Smith Street. But  
20 it's the building immediately adjacent to our  
21 other building.

22           Q.    Is that all?

23           A.    Well, as far as I know, that's  
24 where my husband's 100 percent owner.

25           Q.    You testified earlier that Gold

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2 Stars has a document retention period of seven  
3 years?

4 A. Correct.

5 Q. So after seven years expires, what  
6 happens to documents?

7 A. We typically dispose of them in one  
8 manner or another.

9 Q. So that in one manner or another,  
10 that means by shredding it or throwing it out  
11 or that sort of thing?

12 A. Correct.

13 Q. So that in 2004, International Gold  
14 Star would have been throwing out documents  
15 from 1997?

16 A. I would say so.

17 Q. And in 2005, you would have been  
18 throwing out documents from 1998 and so forth?

19 A. You're correct.

20 Q. There were documents that were  
21 produced by your counsel toward the beginning  
22 of last week that have been marked as  
23 Respondent's 115 and 116.

24 MR. THOMPSON: Are you asking her  
25 to look for those documents?



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2 MR. FRIEDMAN: Yes.

3 MR. THOMPSON: Ms. Pincow, will you  
4 look in the larger pile of documents.

5 THE WITNESS: What is it again?

6 MR. THOMPSON: 115 and 116. I  
7 believe those are the invoices.

8 THE WITNESS: Okay.

9 (Witness reviewing documents.)

10 MR. FRIEDMAN: Now, this set of  
11 documents was produced towards the  
12 beginning of last weekend, and I made  
13 an objection that I would object to the  
14 use of any documents not provided  
15 during the discovery period.

16 I reserve that objection. I'm  
17 going to ask some questions about the  
18 document.

19 BY MR. FRIEDMAN:

20 Q. Now, these documents were, you  
21 stated, found at the Lorraine Street location?

22 A. Correct.

23 Q. How is it that they were located?

24 A. I was actually looking for the  
25 payroll records for International Gold Star

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2 and Gold Star Smoked Fish which were required  
3 by the Empire Zone. The Empire Zone being the  
4 governmental agencies that helps small  
5 businesses located in the Southwest Brooklyn  
6 zone. I should say South Brooklyn zone.

7 While looking for those documents,  
8 I came across one box of invoices that was  
9 dated 1998.

10 Q. Is it fair to say that there would  
11 have been additional boxes of invoices from  
12 1998 at some earlier period of time?

13 MR. THOMPSON: Are you asking her  
14 to speculate?

15 MR. FRIEDMAN: No. Let me rephrase  
16 the question then.

17 Q. Is it the case that other boxes of  
18 invoices from 1998 were destroyed by Gold Star  
19 seven years thereafter, in about 2005?

20 A. I'm still confused by your  
21 question.

22 Q. Okay.

23 A. But I would like to state the  
24 following: This was the only box that we found  
25 recently, and the boxes from 1998 had to have

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2 been destroyed sometime earlier. I would say  
3 at some point when we felt that it was time to  
4 get rid of them, which would probably be the  
5 seven-year period.

6 Q. Now, this proceeding was commenced  
7 in the year 2003. So, is it the case that  
8 Gold Star destroyed invoices relating to its  
9 sale of dairy products under the label  
10 Babushka's Recipe after this proceeding was  
11 commenced?

12 A. I wouldn't think so.

13 Q. You wouldn't think so?

14 A. I don't know. I don't think that  
15 Gold Star would have destroyed any documents  
16 that are required by the IRS prior to their  
17 time.

18 Q. I'm not speaking of the IRS. I'm  
19 talking about this proceeding.

20 A. But that is the main reason we keep  
21 the documents. You know, I don't necessarily  
22 need documents going back that far.

23 Q. I just need to clarify the record  
24 on this.

25 Were documents that reflect sales

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2 of dairy products under the label Babushka's  
3 Recipe destroyed by International Gold Star  
4 after this proceeding was commenced in the  
5 year 2003?

6 MR. THOMPSON: Are you asking if  
7 she knows out of her own knowledge?

8 MR. FRIEDMAN: Yes.

9 A. We did not look through the records  
10 to select specifically particular documents  
11 that had Babushka's Recipe information on it.  
12 So, if any documentation was inadvertently  
13 disposed of by mistake, it would not have been  
14 intentional and it would not have to do  
15 specifically with this case.

16 Q. Were any measures taken after this  
17 proceeding was commenced in 2003 to preserve  
18 documentation relating to the subject matter  
19 of this case?

20 A. To the best of my knowledge, even  
21 though this case commenced in 2003, there was  
22 a period of almost two years where we could  
23 not get the case going so the importance and  
24 significance of getting some of this  
25 documentation was not as apparent to me then

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2 as it became later in the case when you,  
3 Mr. Friedman, started to actively pursuing --  
4 answering letters and communications from  
5 Mr. Thompson.

6 Q. Are you aware that Petitioner's  
7 document demands and interrogatories in this  
8 case were served in the year 2003?

9 A. I don't want to speculate on the  
10 date, but I know it was quite a few years ago.

11 Q. And no documents were produced  
12 until the year 2007?

13 A. I believe there was a reason for  
14 that.

15 Q. And these documents marked as R-115  
16 and R-116 were produced only last week?

17 A. True. And I just went through  
18 testimony as to why they were -- how and why  
19 they were discovered.

20 MR. THOMPSON: And just so the  
21 record is clear, it's my recollection  
22 that Petitioner's documents were also  
23 only produced in 2007 even though they  
24 had originally been requested many  
25 years ago as well.

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2 MR. FRIEDMAN: That is correct.  
3 Because it was done as an exchange of  
4 documents.

5 MR. THOMPSON: As I said, I'm just  
6 making the record clear.

7 MR. FRIEDMAN: However, the  
8 response, the documents themselves were  
9 selected and preserved at the time that  
10 the discovery demands were made in the  
11 year 2003.

12 BY MR. FRIEDMAN:

13 Q. Now, in this Exhibit R-115, you  
14 have identified certain sales as being of  
15 Babushka's Recipe; true?

16 A. True.

17 Q. But the document itself, R-115,  
18 nowhere says "Babushka's Recipe"; true?

19 A. It says "Granny's Recipe," which  
20 implies and translates into Babushka's Recipe.

21 Q. But it does not say "Babushka's  
22 Recipe"?

23 A. It does not say the word "Babushka"  
24 as spelled, B-A-B, and so on.

25 Q. Why is it that you only searched

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2 for these documents after Empire Zone asked  
3 you to undertake a search rather than in  
4 connection with this proceeding?

5 MR. THOMPSON: Objection. That  
6 wasn't --

7 A. That's not what --

8 MR. THOMPSON: -- her testimony.

9 A. -- I said. What I said was while I  
10 was searching for the documents that were  
11 requested by Empire Zone, I came across a box  
12 that was dated 1998 that contained invoices  
13 that you have in front of you.

14 Q. What else was contained in that  
15 box?

16 A. That's it; just the invoices. This  
17 is how we keep our records.

18 Q. What size box approximately was it?

19 A. What size box? It was like a  
20 storage box. You know, like a typical office  
21 storage box similar to that one.

22 Q. And you're referring to a box that  
23 has --

24 A. A standard storage box that's sold  
25 in any Staples or Office Max.

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2 MR. FRIEDMAN: Mr. Thompson, would  
3 this be described as a banker's box?

4 MR. THOMPSON: That's exactly the  
5 term I would have used.

6 Q. So what else was in the banker's  
7 box besides 115 and 116?

8 A. There were just other invoices  
9 related to December '98, but they did not have  
10 the Granny's products on them, and the box was  
11 not completely full either.

12 Q. Was this box near other boxes with  
13 invoices?

14 A. No.

15 Q. There were documents that were  
16 produced in this litigation earlier -- that  
17 is, approximately a year ago -- that also  
18 allegedly referred to sales of goods bearing  
19 the mark "Babushka's Recipe." Where were  
20 those documents located?

21 A. All of my document, all of my  
22 invoices are located in the same room in the  
23 same type of boxes.

24 Q. So, if they were all in the same  
25 room in the same type of boxes, why weren't



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2 1998 invoices located when the other invoices  
3 were located?

4 A. Each box is marked with the year.  
5 So if you can show me what you're referring  
6 to, I'll be able to explain better.

7 MR. FRIEDMAN: Off the record.

8 (Discussion off the record.)

9 BY MR. FRIEDMAN:

10 Q. Now you are looking at  
11 Registrant 124.

12 A. Yes.

13 Q. These are invoices reflecting sales  
14 by Gold Star of products starting in  
15 January 1999.

16 A. Right.

17 Q. And if we look at the second  
18 to last page that has the Bates stamp  
19 number 0032, it has an invoice date of  
20 October 10, 2000?

21 A. Yes.

22 Q. So, were there sales of dairy  
23 products called "Babushka's Recipe" in between  
24 January 1999 and October 2000?

25 A. Of course.

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2 Q. So why were there no invoices  
3 provided?

4 MR. THOMPSON: I'll object to  
5 presupposing that they have been  
6 requested.

7 MR. FRIEDMAN: Well, somebody made  
8 the decision to supply only these  
9 invoices and I would like to know what  
10 the decision-maker was thinking.

11 A. I think the decision-maker was  
12 looking to provide a couple of samples of  
13 various types of clients located -- customers  
14 located in different parts of the United  
15 States with the Babushka product on their  
16 invoice, or Babushka-labeled product on their  
17 invoice.

18 So these were basically randomly  
19 selected invoices.

20 Q. So what happened to the invoices in  
21 between January of 1999 and October of 2000?

22 A. Well, the 1999 I'm pretty certain I  
23 no longer have in my possession. I can go  
24 back to my archives and see if I have anything  
25 from the year 2000.

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2 I was not instructed to pull out  
3 every invoice that contained Babushka's Recipe  
4 sales on it.

5 Q. But if we were to look at this  
6 document with the Bates stamp number of 0032  
7 at the bottom, the sales that you would regard  
8 as sales of Babushka's Recipe, in fact, state  
9 "Granny's Recipe," correct?

10 A. Among other products that have  
11 Babushka's label on them. We have already  
12 determined in my prior testimony that the  
13 product description did not always reflect the  
14 word "Granny's Recipe" -- yet we know that it  
15 had the Babushka label on it -- in some cases.

16 Q. I would like to clear up that we  
17 have not determined any such thing. That was  
18 your statement.

19 A. Sorry. Sorry for that usage of  
20 word.

21 Q. No problem. Spoken like a lawyer.

22 A. I'm trying.

23 Q. Is there an example on this  
24 page 132 of another product that you claim was  
25 sold under the name "Babushka's Recipe"?

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2 A. Page 1 of the invoice, right?

3 Q. Page 1 of the invoice. This is --

4 A. There is only one. I'm sorry.

5 No. This invoice contains only one  
6 product that was sold with the Babushka's  
7 Recipe label.

8 Q. And that is farmer's cheese?

9 A. Farmer's cheese, product number  
10 MG05.

11 Q. As I understand it, this page was  
12 selected as being representative of sales that  
13 were made around or about this time period of  
14 dairy products bearing a mark of what you  
15 claim is Babushka's Recipe?

16 A. Right.

17 Q. So that it's fair to say that at or  
18 about this time, all of Gold Star's invoices  
19 for dairy products that you claim said  
20 "Babushka's Recipe," in fact, were called  
21 something else on the invoice?

22 MR. THOMPSON: Can I hear that read  
23 back?

24 (Record read.)

25 MR. THOMPSON: And "at this time"

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2 you mean what time?

3 MR. FRIEDMAN: The date of this  
4 invoice is October 10, 2000.

5 A. They were called Granny's -- well,  
6 one particular product, farmer's cheese was  
7 called Granny's Recipe, which is a  
8 transcription or translation of the Babushka's  
9 Recipe.

10 Q. On the following page with the  
11 Bates stamp number 0033 at the bottom which  
12 reflects a date of May 15, 2001, this naming  
13 of products on Gold Star invoices had not  
14 changed; true?

15 A. Not on the invoices, but already in  
16 the price list. And if you look at R-122,  
17 page 14 of 122 is a price list of Gold Star  
18 dated 2001-2002.

19 If you look at the item product  
20 No. 41501 on my invoice --

21 Q. I'm sorry. Since the witness is  
22 instructing the lawyer to look at a document,  
23 I need a moment to find it. What is this,  
24 122?

25 MR. THOMPSON: That's the price

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2 list.

3 A. I'm sorry.

4 Q. What page?

5 A. Page 14.

6 Q. And there?

7 A. Item -- on the feta and farmer's  
8 cheeses, item No. 41501, which is the same  
9 item on my invoice dated 5/15/2001.

10 Q. I'm sorry. I need a minute to find  
11 that. 41501.

12 MR. THOMPSON: On the bottom under  
13 feta and farmer's cheese, and then it  
14 is numerical order.

15 MR. FRIEDMAN: I see it.

16 A. It says, "Babushka farmer's cheese  
17 large." And the next item, 41502 says  
18 "Babushka farmer's cheese small." And there  
19 is a star next to these items which basically  
20 says "exclusive products of International Gold  
21 Star Trading Corp."

22 Q. But this price list is titled  
23 "price list 2001-2002," correct?

24 A. True.

25 Q. And the invoice we have in front of

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2 us, GOLD0033 is dated May 13, 2001?

3 A. Correct.

4 Q. And we do not know as we sit here  
5 today, whether this 2001-2002 price list was  
6 created before May 15, 2001 or after; true?

7 A. We know that it was created after.

8 Q. Thank you. How do we know that?

9 A. I already stated that based on what  
10 I've seen in this catalog -- excuse me, price  
11 list, it was created probably end of 2001  
12 beginning 2002.

13 Q. And as we sit here today, there is  
14 no document, no invoice produced by  
15 International Gold Star that says "Babushka's  
16 Recipe" -- I'm talking literally Babushka's  
17 Recipe -- was sold at any time prior to May  
18 2001?

19 A. You're correct. May I finish the  
20 statement?

21 Q. Please.

22 MR. THOMPSON: Do you have  
23 something to add?

24 A. We have seven witnesses stating  
25 that to every one of them -- including all of

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2 my customers that have been here -- Babushka's  
3 Recipe and Granny's Recipe were all one and  
4 the same.

5 Q. I would say that is a matter of  
6 interpretation.

7 A. Exactly.

8 MR. THOMPSON: Literally and  
9 translation.

10 MR. FRIEDMAN: I need a quick  
11 bathroom break.

12 MR. THOMPSON: Sure.

13 (Whereupon, a recess was taken  
14 from 2:13 p.m. to 2:16 p.m.)

15 BY MR. FRIEDMAN:

16 Q. I understand your testimony, you  
17 would state that by mid-2001, Babushka's  
18 Recipe had become a popular brand for dairy  
19 products for Gold Star?

20 A. I think it became popular even  
21 prior to that.

22 Q. So why then was it not listed in  
23 any of Gold Star's price lists or catalogs  
24 before the 2001-2002 price list?

25 MR. THOMPSON: Objection. We don't



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2 know that it wasn't on a price list  
3 before then, we just don't have any  
4 copies of those price lists.

5 I don't believe she's testified  
6 that it wasn't done before then.

7 Q. Were those earlier price lists, if  
8 any, in existence in 2004 while this case was  
9 pending?

10 A. The ones that were in existence in  
11 2004 would be just computerized price lists.  
12 They would not be look something like this  
13 (indicating).

14 Q. Referring to --

15 A. I'm referring to 122.

16 Q. Why was R-122 preserved?

17 A. We have preserved a couple of  
18 things that contained prior lines, prior lines  
19 of product -- products, I should say -- to  
20 make a decision whether we want to continue  
21 with some of these lines or not.

22 But the fact that our computer  
23 could now generate a price list makes this  
24 obsolete, so we refer only to our catalogs  
25 that we print or try to print every year.

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2 Q. Because you're able to rely upon  
3 your computer records?

4 A. Because for line -- for product  
5 line purposes, we now refer to our catalog.  
6 For price or vendor information purposes, we  
7 now rely on our software.

8 But whereas before I had to create  
9 price lists manually in Excel, today and  
10 starting, I believe, maybe in 2004, maybe even  
11 earlier, I could generate a price list right  
12 out of the computer. Obviously it is not  
13 going to have images next to it, but it will  
14 have my code and prices.

15 Q. So you rely upon your computer  
16 records for --

17 A. Pricing.

18 Q. -- pricing?

19 A. Yes.

20 Q. Now, your computer records with  
21 respect to volume of sales of particular  
22 products go back only to the year 2001; true?

23 A. True.

24 Q. Because as I understand your  
25 testimony, when you went to a new computer

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2 system in 2001, it wiped out all the  
3 information that you had on your system from  
4 before 2001?

5 A. It doesn't wipe it out. It  
6 replaces it, so you can no longer go back into  
7 the system to -- let me rephrase that.

8 It's a new model that gets  
9 installed into the computer. And from that  
10 point on, you're using the new model for all  
11 of your points of reference as far as  
12 accounting and inventory is concerned. The  
13 only thing that gets transferred from the  
14 opened program is the actual account balances  
15 as in accounts receivables.

16 Q. And it is your testimony, as I  
17 understand it, that the information regarding  
18 sales from prior to 2001 is no longer  
19 accessible to International Gold Star?

20 A. That is correct.

21 Q. Now, R-124, when these purported  
22 invoices from January 1999 were located, were  
23 they not kept very near by the box where the  
24 1998 invoices were located very recently?

25 MR. THOMPSON: Define "nearby"?

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2 MR. FRIEDMAN: In the same room.

3 A. Not necessarily.

4 Q. When you say "not necessarily,"  
5 what do you mean?

6 A. I may have boxes of invoices for  
7 the year, let's say, 1998 covered with the  
8 boxes of payroll records from 1999, and then  
9 the layers might change because we just pile  
10 up the boxes one on top of the other hoping  
11 that we at least keep, you know, certain  
12 documents for the same year together.

13 So where I had the invoices, I may  
14 have payroll records, bank records and things  
15 of other nature for that year. It would not  
16 necessarily be that invoices of 1998 would be  
17 immediately next to the boxes for invoices of  
18 1999.

19 Q. Who, if anybody, was responsible  
20 for searching for the invoices that might have  
21 existed from 1998?

22 A. I was.

23 Q. As I look at the Gold Star  
24 invoices, I see that there is an invoice  
25 numbering system. How does that invoice

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2 numbering system work?

3 A. With every generation of an invoice  
4 out of the system, the computer system assigns  
5 a number.

6 Q. Okay. That's it?

7 A. That's it.

8 Q. Is there any logic to the numbering  
9 system? Is it sequential?

10 A. Typically, it's sequential for the  
11 invoices. But if my accounts receivable  
12 person were to make a credit to a certain  
13 invoice, it would come up with an invoice  
14 number, but it would not necessarily be an  
15 invoice now, would it? It would just be a  
16 credit memo, yet it would have a number  
17 sequential to something that is an invoice.  
18 Am I clear or is that confusing?

19 MR. FRIEDMAN: If you could read  
20 that back, please.

21 A. For example, if we were to take --

22 MR. FRIEDMAN: Could you read that  
23 back?

24 (Record read.)

25 Q. I think I understand what you said.

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2 But if you want to elaborate, please do.

3 A. Well, if we just generated an  
4 invoice number, for example, 11499 and  
5 immediately after my accounts receivable  
6 person was giving a credit memo on some other  
7 invoice, she might have assigned a number  
8 11500.

9 Q. Did your invoice numbering system  
10 change when you went to the new software in  
11 2001?

12 A. No, not as far as I can remember.

13 Q. There has been testimony earlier in  
14 the proceedings that the invoices were  
15 generated in triplicates?

16 A. Correct.

17 Q. In other words, different color  
18 copies?

19 A. True.

20 Q. What were the colors?

21 A. The white, the yellow and the  
22 pink/orange. I would say it's pink.

23 Q. Which of those, if any, did Gold  
24 Star keep?

25 A. We keep the white copy, the

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2 original copy, such as in 115.

3 Q. So the yellow and the pink, Gold  
4 Star did not keep?

5 A. Depending on where the customer is,  
6 we might keep both the yellow and the pink.  
7 If it's an out-of-town customer, we keep the  
8 yellow copy with us until the white copy  
9 returns to us with a signed received  
10 signature, and that is only if it's gone with  
11 our own truck, if our trucker is delivering  
12 the product.

13 If the shipment is made by a common  
14 carrier, then we keep the white copy, we send  
15 the pink copy with the shipment and the yellow  
16 copy is kept in Gold Star's premises with the  
17 order sheet. I hope I don't bore you.

18 MR. THOMPSON: I'm listening  
19 rampantly.

20 Q. What is an order sheet?

21 A. An order sheet, a wide sheet of  
22 paper --

23 Q. I'm sorry. You're saying wide or  
24 white?

25 A. Wide. Wide sheet of paper where we

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2 list the most popular products that we sell by  
3 product category and by vendor, so that when  
4 the customer calls, the salesperson can take  
5 the order down as if there were a Chinese  
6 menu. So all the items are listed and --

7 Q. So -- I'm sorry.

8 A. And the order gets filled in by  
9 hand at first.

10 Q. So the order sheet is only an  
11 internal Gold Star document?

12 A. Absolutely.

13 Q. Does the customer also have  
14 something in the nature of an order sheet to  
15 place the customer's order from?

16 A. This was not something we were  
17 sending to the customer.

18 Q. In the year 1998, if a customer was  
19 placing an order, how would they indicate to  
20 Gold Star what they wished to purchase?

21 A. They would name the product that  
22 they wished to purchase and the amount of --  
23 the quantity that they wished to purchase.

24 Q. They would use the product's common  
25 name?



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2 A. Correct as it's known to them.

3 MR. THOMPSON: I'm going to object  
4 to your characterization of the name  
5 "common name" since I don't understand  
6 what you mean by "common name." That's  
7 susceptible to several different  
8 interpretations.

9 MR. FRIEDMAN: I'll withdraw that  
10 question.

11 Q. Ms. Pincow, I believe you stated  
12 that the customer would use the product name  
13 known to the customer, right?

14 A. The way they're used to calling the  
15 product.

16 Q. Would that typically be what the  
17 product is called in the Gold Star invoice?

18 A. Not necessarily.

19 Q. Do you know whether Dmitry Lerner  
20 has ever been arrested?

21 A. I don't know. I'm surprised myself  
22 to hear that question posed by you to my  
23 husband.

24 Q. Has Gold Star been involved in any  
25 lawsuits with Royal Baltic?

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2 A. Yes.

3 Q. What was that about?

4 A. I believe it was years ago, and the  
5 item in question was a label.

6 Q. Do you know what quarter it was in?

7 A. No. I have to go on record to  
8 state that it's prior to my coming to work for  
9 International Gold Star.

10 Q. When did you go to work for  
11 International Gold Star?

12 A. June 1995.

13 Q. Do you know what the label was;  
14 what the mark was?

15 A. I know it had to do with a seafood  
16 product label.

17 Q. A product in the line of seafood?

18 A. Yes.

19 MR. FRIEDMAN: I need to find an  
20 exhibit. It will just take a minute.

21 (Pause in the proceedings.)

22 Q. Can you take a look for  
23 Petitioner's 211?

24 A. Okay.

25 Q. I would like to direct your

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2 attention to the second page of  
3 Petitioner's 211 with Bates stamp GOLD0010 at  
4 the bottom. What is that?

5 A. This is a label depicting  
6 "Babushka's Recipe" logo --

7 Q. Please. The second page.

8 A. Sorry. This is an invoice from Jes  
9 Printing to Gold Star International.

10 Q. What is it for? What did Jes  
11 Printing provide Gold Star International with?

12 A. According to the invoice, it is  
13 Babushka's Recipe home style bottle label, but  
14 that's what the invoice says. I don't know  
15 what exactly was supplied.

16 Q. This is among the documents that  
17 were first supplied by International Gold Star  
18 in this litigation. Is there any particular  
19 reason why this invoice was produced?

20 A. I would assume this was produced to  
21 show that we had continued use of Babushka's  
22 Recipe label. This invoice is dated  
23 9/29/2000.

24 MR. FRIEDMAN: I'm going to look  
25 through my notes.

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2 (Whereupon, a recess was taken  
3 from 2:34 p.m. to 2:35 p.m.)

4 BY MR. FRIEDMAN:

5 Q. In the exhibit marked as  
6 Registrant 116, if you were to look at the  
7 third from the last page, it has a Bates stamp  
8 number of 0283 at the bottom.

9 A. Yes.

10 Q. I believe you previously testified  
11 that items such as cheese yogurt loaf and  
12 cheese yogurt vegetable loaf was sold under  
13 the Babushka's Recipe label?

14 A. That's right.

15 Q. Now, those cheese yogurt products  
16 were supplied to you by Bunker Hill, correct?

17 A. Correct.

18 Q. And they were supplied in a vacuum-  
19 packed bag, correct?

20 A. Correct.

21 Q. Who placed the label on the  
22 product?

23 A. The person that was working in the  
24 dairy department at Gold Star.

25 Q. And that label, how was it affixed

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2 to the product?

3 A. It was just pasted, glued on. It's  
4 a label. The label is provided with adhesive,  
5 so you would just place the label on. It  
6 comes in a roll.

7 Q. Was there a label on the product  
8 when you obtained it from Bunker Hill?

9 A. No.

10 Q. It was provided without label?

11 A. Without label. You have some  
12 examples here. Sometimes we didn't have  
13 labels on. So you can see there are several  
14 situations where the label is not affixed on  
15 the product (indicating). That's how it got  
16 into the catalog. Same with these two items.  
17 Unfortunately, the label got -- the product  
18 got into our catalog without even a label on  
19 it.

20 MR. FRIEDMAN: The witness is  
21 referring to Respondent's Exhibit 4  
22 from the deposition of April 17, 2008  
23 and specifically to page 20.

24 MR. THOMPSON: Do you mind  
25 identifying the two items she made

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2           reference to?

3           MR. FRIEDMAN: I will be happy to.

4           It was item 42012, which is  
5           identified in the catalog as yogurt  
6           smoked wheel without a brand name; and  
7           there is item 40703 which is identified  
8           as gouda cholesterol free also without  
9           a brand name.

10          BY MR. FRIEDMAN:

11           Q. Now, this catalog, you previously  
12           testified, is from the year 2000, correct?

13           A. Correct.

14           Q. And these items that have just been  
15           identified by number, who was the manufacturer  
16           of these items?

17           A. Well, on 42012, for certain this is  
18           a product from Bunker Hill Cheese.

19           Q. 42012, which is the yogurt smoked  
20           wheel. So this item is vacuumed-packed but  
21           without a label?

22           A. Correct.

23           Q. And 40703, who supplied that?

24           A. I can't remember.

25           Q. Was Gold Star, as you understand

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2 it, free to affix any private label it wished  
3 upon the unlabeled cheese provided by Bunker  
4 Hill?

5 A. "Free" is a very general word. As  
6 you know, Lisa Troyer and I had an  
7 understanding of the kind of products that we  
8 could put our private label on, because at a  
9 certain time, she had still the other  
10 distributors to deal with being Beluga and  
11 Eastern Star from those that I recollect.

12 So at the very beginning, we had an  
13 agreement that I would only do private label  
14 on the products that will not interfere with  
15 her sales.

16 Q. And in 1998, what products were  
17 those?

18 A. Well, the conditions under which  
19 she sold me the original yogurt cheese was  
20 such that it would have to have a private  
21 label "Babushka" on it, and there were  
22 flavored products which nobody wanted that  
23 much so Gold Star was free to put a "Babushka"  
24 label on any of those.

25 MR. FRIEDMAN: Can you read back

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2 the last two answers?

3 (Record read.)

4 Q. So you are selling the yogurt  
5 cheese under the Babushka label, but when you  
6 put it in the catalog you put it in without  
7 any label at all as we just saw?

8 A. That is because at a certain point,  
9 Lisa said that she will no longer deal with  
10 Beluga caviar and I could use the product with  
11 her labels on them if I wanted to.

12 Q. But then why put it in your catalog  
13 without any label at all, such as we see in  
14 42012 in Respondent's 4?

15 A. It could have been that that's how  
16 the product was shipped to us. I don't know  
17 if at that time we were still applying the  
18 Babushka label to the smoked yogurt cheese  
19 wheel or we were selling it already in general  
20 under her label, that is similar to 42013 and  
21 42014.

22 Q. Could you tell me what Alex  
23 Alexander's position was for International  
24 Gold Star?

25 A. He was the manager and the



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2 supervisor of the meat department.

3           Q.   Who was the manager of the  
4 warehouse before Jacob Krumgalz?

5           A.   There really wasn't a, per se,  
6 warehouse manager. What happened is we lost  
7 the manager that we had whose name is Joseph  
8 Bromberg and Alex Alexander sort of ran the  
9 place between the meat department and the  
10 warehouse until Jacob came along. It was only  
11 a short period of time, a couple of months.

12          Q.   The Bromberg fellow that you  
13 identified, what was his position?

14          A.   Prior to Jacob Krumgalz, Joseph  
15 Bromberg was our warehouse manager.

16          Q.   Where is Joseph Bromberg today, if  
17 you know?

18          A.   To the best of my knowledge, he has  
19 a company of his own that manufactures  
20 marinated vegetables. It is a small world.

21          Q.   What's the name of his company?

22          A.   I think it's called Magic Pickle.

23          Q.   Where are they located?

24          A.   I'm not sure if it's in Brooklyn or  
25 in Queens.

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2 Q. Whose responsibility at  
3 International Gold Star was it to affix the  
4 Babushka's Recipe labels to the dairy  
5 products?

6 MR. THOMPSON: At what period of  
7 time? You put it in the past tense.

8 MR. FRIEDMAN: 1998.

9 A. Whoever was an employee in the  
10 packaging department in the warehouse. It  
11 could have been any number of people that  
12 worked for Gold Star as packers, shippers. It  
13 is not a task that's assigned to a particular  
14 person.

15 Q. How many such people were there  
16 working at the Gold Star warehouse in 1998?

17 MR. THOMPSON: Are you asking at  
18 any given time or if people came and  
19 went, how many people over the course  
20 of the year?

21 MR. FRIEDMAN: At any one given  
22 time.

23 A. I would say there were probably  
24 anywhere between four to six packers in that  
25 time.

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2 Q. What kind of turnover did Gold Star  
3 have in its packers?

4 A. Unfortunately, this is one  
5 department that has very heavy turnover.

6 Q. Are there any packers there today  
7 who were there in 1998?

8 A. No.

9 Q. What has become of Lyudmila Glans?

10 A. Lyudmila left Gold, Star I would  
11 say, somewhere around April or May of this  
12 year voluntarily. She decided to join a  
13 company that had something to do with imports  
14 and exports of equipment, I believe,  
15 construction equipment.

16 Q. Do you know the name of that  
17 company?

18 A. No.

19 Q. You would have that in your files?

20 A. No.

21 Q. You have a last name and address in  
22 your files?

23 A. Yes.

24 RQ Q. Can you supply it?

25 A. Sure.

1 G. Pincow - Confidential

2 Q. Thank you.

3 MR. FRIEDMAN: No further questions  
4 at this time. Thank you.

5 MR. THOMPSON: I just have one or  
6 two questions.

7 EXAMINATION BY

8 MR. THOMPSON:

9 Q. I want to clarify the state of the  
10 room in which the records were kept.

11 You indicated different records  
12 would be kept in different boxes in labels?

13 A. Right.

14 Q. Did those boxes ever get moved at  
15 any point in time?

16 A. All the boxes are always in the  
17 same room. They may be moved around the room,  
18 but they were never moved out of the premises  
19 of 250 Lorraine Street.

20  
21  
22 (Continued on next page to include jurat.)  
23  
24  
25

1 G. Pincow - Confidential

2 Q. But if someone was looking for a  
3 box at the bottom, could they reach for boxes  
4 on top?

5 A. Absolutely. I believe that is the  
6 reason that we found the box with the invoices  
7 relating to 1998.

8 MR. THOMPSON: That's all I have.

9 MR. FRIEDMAN: No further  
10 questions.

11 (Time noted: 2:50 p.m.)  
12  
13  
14

15 \_\_\_\_\_  
16 GALINA PINCOW  
17  
18  
19  
20

21 Subscribed and sworn to before me,  
22 this \_\_\_\_ day \_\_\_\_\_ of 2008.  
23

24 \_\_\_\_\_  
25 Notary Public

## -----I N D E X-----

WITNESS	EXAMINATION BY	PAGE
G. PINCOW	MR. FRIEDMAN	137
	MR. THOMPSON	248

DIRECTIONS: [None]

MOTIONS: [None]

REQUESTS: PAGE 247

## -----EXHIBITS-----

PETITIONER EXHIBIT FOR I.D.

Exhibit 215 139

Trademark Application, P0110-114

Exhibit 216 169

Salzberg Cheese, Walker Foods

Jersey City, original yellow  
packaging

Exhibit 217 196

Copy of International Gold Star

Check No. 0004852, GOLD0005-06

## -----EXHIBITS-----

## PETITIONER EXHIBIT FOR I.D.

Exhibit 218 196

International Gold Star Check

No. 0004960, GOLD0003-04

Exhibit 219 205

Registrant's Responses to  
Petitioner's Interrogatories

## -----EXHIBITS-----

[previously marked]

## PETITIONER EXHIBIT FOR I.D.

Registrant 117 150

Respondent 4 155

Registrant 122 159

Registrant 120 163

Petitioner 213 180

Respondent 115-116 212

Registrant 124 221

Petitioner 211 238

- - -

C E R T I F I C A T E

STATE OF NEW YORK )  
 ) ss.:  
 COUNTY OF KINGS )

I, MAYLEEN CINTRON, a Notary Public  
 within and for the State of New York,  
 do hereby certify:

That GALINA PINCOW, the witness  
 whose deposition is hereinbefore set  
 forth, was duly resworn by me and that  
 such deposition is a true record of the  
 testimony given by such witness.

I further certify that I am not  
 related to any of the parties to this  
 action by blood or marriage; and that I  
 am in no way interested in the outcome  
 of this matter.

IN WITNESS WHEREOF, I have hereunto  
 set my hand this 30th day of October,  
 2008.

-----

MAYLEEN CINTRON, RMR, CRR



## ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: Four Seasons v Gold Star

Dep. Date:           October 23, 2008

Deponent: Galina Pincow

Pg.	Ln.	Now Reads	Should Read	Reason
-----	-----	-----------	-------------	--------

\_\_\_\_\_

\_\_\_\_\_

GALINA PINCOW

SUBSCRIBED AND SWORN BEFORE ME,

This\_\_\_\_\_ day of\_\_\_\_\_, 2008.

Notary Public

My Commission Expires:\_\_\_\_\_

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**TRADEMARK APPLICATION**  
**CORPORATE APPLICANT**

Mark : **BABUSHKA'S RECIPE**  
Applicant : International Gold Star Trading Corp.  
Address : 570 Smith Street  
Brooklyn, New York 11231  
Class : 29 (Intl.)  
Goods : Dairy products, excluding ice cream, ice milk and frozen yogurt, processed  
and marinated vegetables  
First Use : September 1999  
Commerce : September 1999

TO THE HON. COMMISSIONER OF PATENTS AND TRADEMARKS  
WASHINGTON, D.C. 20231

Sir:

The above-identified applicant, a domestic corporation, incorporated under the laws of Delaware, having an address as indicated above, has adopted and is using the trademark shown in the accompanying drawing for the goods specified above, and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

The mark was first used on the goods in September 1999, was first so used in interstate commerce in September 1999, and is now in such use in such commerce. (15 U.S.C. § 1051(a), as amended).

The mark is used by applying it to packaging containing the goods sold under the mark. Three facsimiles showing the mark as used in commerce are presented herewith.

The undersigned declares that she is an officer of applicant corporation, and is authorized to execute this application on behalf of applicant; that she believes applicant to be the owner of the mark sought to be registered; that, to the best of her knowledge and belief, no other person, firm, corporation or association has the right to use said mark in commerce, either in the form of the identical mark, or in such near resemblance thereto as may be likely, when applied to the goods of such other person, or used in connection with the services of such other person, to cause confusion, mistake or deception; that all statements made herein of her own knowledge are true, and that all statements made herein on information and belief are believed to be true; and further that these

Four Seasons Dairy, Inc., Petitioner  
v.  
International Gold Star Trading Corp., Registrant  
Cancellation No. 92/042,082

Petitioner Exhibit

215 10/23/08


GOLD STAR-6

statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements and the like may jeopardize the validity of the instant application or any registration resulting therefrom.

### POWER OF ATTORNEY

Applicant hereby appoints Roger S. Thompson, Esq., a member of the Bar of the State of New York, having a mailing address of 116 Pinehurst Ave., #D-14, New York, New York 10033, and a telephone number of (212) 923-5145, as attorney to prosecute this application for registration of trademark with full power of substitution and revocation, to transact all business in the Patent and Trademark Office connected therewith, to receive all correspondence in connection with this application, and to receive the Certificate of Registration which may issue based upon this application.

International Gold Star Trading Corp.

By:   
Ms. Galina Pincow

  
Office

Date: 11/11/99

ROGER S. THOMPSON  
ATTORNEY AT LAW  
116 PINEHURST AVE., #D-14  
NEW YORK, NEW YORK 10038

TELECOPIER: (212) 923-3046

TELEPHONE: (212) 923-5145

December 7, 1999

Asst. Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA. 22202  
Box FEE

Re: New Trademark Application for  
**BABUSHKA'S RECIPE**  
Our ref: Gold Star - 6

Dear Sir:

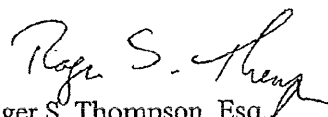
Enclosed is a new application for the above-referred mark, the application comprising:

The Application;  
A Power of Attorney;  
A Drawing;  
A Check in the amount of \$245.00, the fee for one class of goods;  
Three facsimiles; and  
A Return, Pre-Paid, Postcard.

The facsimiles are copies of labels applied to the goods sold under the mark.

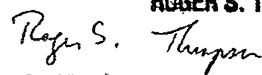
Early and favorable action is respectfully solicited.

Very Truly Yours,

  
Roger S. Thompson, Esq.

Express I hereby certify that this correspondence is being  
deposited with the United States Postal Service as  
first-class mail in an envelope addressed to: ~~Commissioner of Patents and Trademarks, Washington,~~ Asst.  
D.C. 20231 on Dec. 7, 1999 Exp. Mail No.  
22202

ROGER S. THOMPSON EJ529354618 US

By:   
Dated: Dec. 7, 1999

75865702

TRADEMARK APPLICATION SERIAL NO. \_\_\_\_\_

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

12/10/1999 TEVWS 00000151 75865702

01 FC:361

245.00 00

PTO-1555  
(5/87)

GOLD STAR-6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK APPLICATION  
CORPORATE APPLICANT

Mark : **BABUSHKA'S RECIPE**  
Applicant : International Gold Star Trading Corp.  
Address : 570 Smith Street  
Brooklyn, New York 11231  
Class : 29 (Intl.)  
Goods : Dairy products, excluding ice cream, ice milk and frozen yogurt  
First Use : September 1999  
Commerce : September 1999

**BABUSHKA'S RECIPE**



12-07-1999

U.S. Patent & TMOfr/TM Mail Rpt Dt. #54

**PUBLISHED**  
**05/29/01**



D  
 7.2  
 0  
 TOTAL  
 PRICE  
 WEIGHT  
 SELL BY  
 (NO CASH)

# SALZBERG CHEESE



SEMI-SOFT PART-SKIM  
 CHEESE MADE FROM  
 PASTEURIZED MILK  
 Imported for Walker Foods Inc.  
 Springfield, N.J. 07081

**Cheese from Austria**

Exported by **ALPEX**  
 Vienna, Austria  
 INGREDIENTS: MILK, NATAMYCIN  
 CHEESE CULTURE, SALT, ENZYMES,  
 BETA-CAROTENE, NATURAL COLOR

**SALZBERG CHEESE**  
**WALKER FOODS JERSEY CITY**  
 PO 81397

**PRODUCT OF AUSTRIA**

NET WEIGHT: **2.18LB**  
**0.99kg**

ÖSTERREICH  
 40-20  
 EG

9325

Nutrition Facts			
Serving Size 1 oz (28g/about 1 inch cube)			
Servings Per Container about 35			
Amount Per Serving			
Calories 86	Calories from Fat 59		
		% Daily Value*	
<b>Total Fat</b> 6g			
Saturated Fat 4g		9%	
<b>Cholesterol</b> 19mg		20%	
<b>Sodium</b> 252mg		6%	
<b>Total Carbohydrate</b> 0g		11%	
Dietary Fiber 0g		0%	
Sugars 0g		0%	
<b>Protein</b> 7g			
Vitamin A 6%	-	Vitamin C 0%	
Calcium 21%	-	Iron 0%	
* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.			

Four Seasons Dairy, Inc., Petitioner  
 v.  
 International Gold Star Trading Corp., Registrant  
 Cancellation No. 92/042,082

Petitioner Exhibit 216 10/23/08



INTERNATIONAL GOLD STAR TRADING CORP.  
ACCOUNT NO. 2  
570 SMITH STREET  
BROOKLYN, NY 11231

CITIBANK CITIBANK, N.A. BR. #395  
7501 THIRD AVENUE  
BROOKLYN, NY 11209

0004852

1-3/210 BR. 395

CHECK NO.

CHECK DATE

VENDOR NO.

PAY

004852 01/06/99 GLENRO

SIX HUNDRED SEVENTY-ONE AND 19/100 DOLLARS \*\*\*\*\*4150 21 012199

CHECK AMOUNT

TO THE  
ORDER  
OF:

GLENROY/FIRST IMPRESSIONS  
1437 WELLS DRIVE

\*\*\*\*\*671.19

BENSALEM

PA 19020

THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ARTIFICIAL WATERMARK. HOLD AT AN ANGLE TO VIEW.

004852

REDACTED

Four Seasons Dairy, Inc., Petitioner

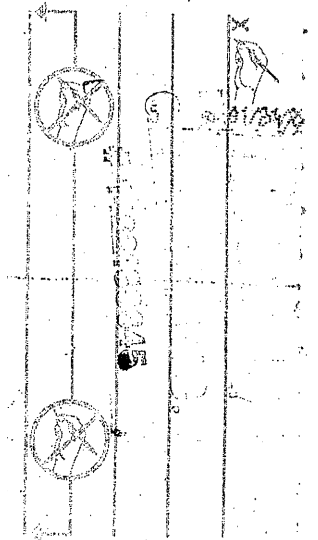
International Gold Star Trading Corp., Registrant  
Cancellation No. 92/042,082

Petitioner Exhibit 217 01/23/98

GOLD0005



REDACTED





INTERNATIONAL GOLD STAR TRADING CORP.  
ACCOUNT NO. 2  
570 SMITH STREET  
BROOKLYN, NY 11231

CITIBANK CITIBANK, N. A. BR. #395  
7501 THIRD AVENUE  
BROOKLYN, NY 11209

0004960

1-8/210 BR. 395

CHECK NO. CHECK DATE VENDOR NO.

REDACTED

004960 01/28/99 PEER  
CHECK AMOUNT

PAY

FIVE HUNDRED FORTY-TWO AND 17/100 DOLLARS\*\*\*\*\*

TO THE  
ORDER  
OF:

PEERLESS PRESS  
5820 FT. HAMILTON PKWY

BROOKLYN

NY 11219-4897

\*\*\*\*\*542.17

THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ARTIFICIAL WATERMARK. HOLD AT AN ANGLE TO VIEW.  
0004960

REDACTED

Four Seasons Dairy, Inc., Petitioner

v.

International Gold Star Trading Corp., Registrant  
Cancellation No. 92/042,082

Petitioner Exhibit 218 rd/23/63

GOLD0003

REDACTED

X

PAY TO THE ORDER OF  
NORTH FORK BANK  
BROOKLYN, NY 11219  
# 021407912 4  
FOR DEPOSIT ONLY  
H. I. AND S.  
FEDERAL PRESS D/B/A  
664605517

FOUR SEASONS DAIRY, INC.,	:	Cancellation No. 92/042,082
Petitioner,	:	
v.	:	Mark: <b>BABUSHKA'S RECIPE</b>
INTERNATIONAL GOLD STAR	:	Reg. No. 2,479,287
TRADING CORP.,	:	
Registrant.	:	

Registrant, International Gold Star Trading Corp. ("Gold Star"), hereby responds to the Interrogatories propounded by Petitioner, Four Seasons Dairy, Inc.

1. Registrant objects to the Interrogatories to the extent that they seek the identification of documents and/or things subject to a claim of attorney-client privilege, attorney work product or any other immunity from discovery. Any such documents and/or things will not be produced.

3. Registrant objects to the Interrogatories to the extent that they impose obligations beyond the scope of discovery permissible under the Federal Rules of Civil Procedure, Title 37 of the Code of Federal Regulations, the TBMP or other applicable authority.

4. Registrant objects to the Interrogatories to the extent that they seek identification of attorney-client privileged and/or attorney work product documents and/or things and/or information concerning same, which documents, things and/or information concern the conduct of this proceeding and were created after the filing of the Petition herein.

5. Registrant objects to the Interrogatories to the extent that they seek the identification of documents and/or things not within Registrant's possession, custody or control.

6. Registrant objects to the Interrogatories to the extent that they seek the identification of documents and/or things, and/or information not relevant to this action and/or not reasonably calculated to lead to the discovery of admissible evidence herein.

7. Registrant's responses are not admissions that the requested information is relevant, material or admissible and are not waivers of any rights or objections available to Registrant.

8. Registrant objects to the Interrogatories to the extent that they seek identification of entire documents that contain both relevant and irrelevant information and/or both information that is requested and information that is not requested and/or both information that is immune from discovery and information that is not so immune.

9. Registrant objects to the Interrogatories to the extent that they contain a phrase such as "[a]ll documents" or the like as being overly broad and unduly burdensome to the extent that they include, for example, documents which, although containing passing reference to identified subject matter, would not ordinarily be expected to contain such information and therefore could be found only through an unreasonably burdensome search.

10. Registrant objects to the Interrogatories to the extent that they are duplicative, overlapping or otherwise redundant as to subject matter of any other Interrogatory.

11. Registrant's responses are based upon its present knowledge, information and belief and are subject to correction, modification and/or supplementation based upon later-acquired facts or other information.

12. Registrant's responses indicating that documents and/or things will be produced in response to a specific Interrogatory are not representations or admissions that such documents and/or things are within the possession, custody or control of Registrant or that such documents and/or things exist. Instead, such responses indicate only that should any such documents and/or things be found within the possession, custody or control of Registrant after a reasonable search, they will be produced, subject to any applicable objections.

13. Any objection based upon a claim of attorney-client privilege, attorney work product or any other immunity from discovery is not a representation or admission that there are such requested documents and/or things are within the possession, custody or control of Registrant or that such documents and/or things exist. Such an objection indicates only that the scope of the Interrogatory may extend to information, documents and/or things not subject to discovery for one or more of these reasons and that, should such information, documents and/or things be found within the possession, custody or control of Registrant after a reasonable search, they will not be provided.

14. Registrant objects to the provision of information, documents and/or things that would violate any duty or obligation that Registrant has to a nonparty to this action.

These objections apply to all of Registrant's responses. Specific objections are made in response to a specific Interrogatory only because they are believed to be particularly applicable to the request. They are not to be construed as waivers of any other General Objection not specifically recited therein.

## **INTERROGATORIES**

### **Interrogatory No. 1**

Identify all officers and directors of Registrant from 1997 to the present.

### **Response:**

Robert Pincow, President of Gold Star from 1997 to the present. He may be reached through Gold Star's counsel.

### **Interrogatory No. 2:**

Describe in detail all past and existing relations, including contracts, agreements, licenses, assignments, or other relations, between Registrant and any third party, including predecessor companies, related, or affiliated companies, relating in any manner to Registrant's Mark.

### **Response:**

Please see General Objection No. 2. Upon entry of a suitable Protective Order, Gold Star will respond to this Interrogatory.

### **Interrogatory No. 3:**

With respect to Registrant's Mark, identify the person or persons most knowledgeable about Registrant's sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.

**Response:**

Galina Pincow, Vice-President of Gold Star. She may be reached through Gold Star's counsel.

**Interrogatory No. 4:**

Identify all state and federal registrations, applications for registration, and uses by Registrant of any mark which incorporates the terms BABUSHKA or BABUSHKINO, and for each such registration, application, and use, identify all documents relating thereto.

**Response:**

United States Trademark Registration No. 2,479,287, the subject of the instant cancellation; and United States Trademark Applications Ser. Nos. 78/333,758 and 78/978,140.

Relevant documents include the file histories of the applications and registration available from the United States Patent and trademark Office. Other documents may be protected by the attorney-client privilege, and/or be confidential. Reference is therefore made to General Objection Nos. 1 and 2.

Gold Star uses the mark BABUSHKA'S RECIPE mark on at least the following goods: Dairy products, excluding ice cream, ice milk and frozen yogurt; processed and marinated vegetables; meat products, namely, chicken bologna, veal bologna, beef bologna, pork bologna, pork salami, kielbasa, canned roast beef in gravy, meats other than chicken bologna, veal bologna, beef bologna, pork bologna, pork salami, kielbasa and canned roast beef in gravy; processed meats; edible oils and fats.



**Interrogatory No. 5:**

Identify all third-party state and federal registrations, applications for registration, and uses known to Registrant of any mark which incorporates the terms BABUSHKA or BABUSHKINO, and for each such registration, application, and use, identify all documents relating thereto.

**Response:**

Gold Star is not aware of any third-party application or use of any mark which incorporates the term "BABUSHKA". Gold Star is aware of a third party registration for the mark DECAF BABUSHKA BLEND, Reg. No. 2221853.

Gold Star is not aware of any third-party registration, application or use which incorporates the term BABUSHKINO.

**Interrogatory No. 6:**

Describe in detail the nature of Registrant's business or businesses, including the date on which Registrant first engaged in each such business.

**Response:**

Gold Star is an importer and distributor of fine foods, with an emphasis on the ethnic food market, especially Russian and Eastern European ethnic foods. It has been engaged in that business since at least 1988.

**Interrogatory No. 7:**

Identify and describe each of the goods and/or services on which Registrant intends to

use or has used Registrant's Mark, or any variation thereof

**Response:**

The goods with which Gold Star now uses the mark BABUSHKA'S RECIPE are listed in the above response to Interrogatory No. 4.

Gold Star intends to use the mark on at least the following goods: staple foods, namely, breads, cookies, cakes and pastries; candies; honey; salt; mustards; sauces; spices; mineral and aerated waters; fruit based beverages; non-alcoholic beverages, namely, carbonated beverages; vegetable juices; fruit drinks; fruit juices; fruits and vegetables; preserved, dried and cooked fruits and vegetables; jellies; jams; and side dishes made from processed fruits.

**Interrogatory No. 8:**

Identify all documents and set forth with specificity all facts regarding the selection by Registrant of Registrant's Mark including, without limitation, the circumstances and method by which Registrant adopted the terms BABUSHKA as a part of its mark.

**Response:**

Please see General Objections Nos. 1, 2 and 9. Upon entry of a suitable Protective Order, a response hereto will be provided.

**Interrogatory No. 9:**

Describe in detail the derivation of the terms BABUSHKA'S RECIPE as Registrant's Mark and identify all documents related thereto.

**Response:**

Please see General Objections Nos. 1, 2 and 9. Upon entry of a suitable Protective Order, a response hereto will be provided.

**Interrogatory No. 10:**

Identify all persons who were involved in, or participated in any way with, the decision to adopt, register and/or use the BABUSHKA'S RECIPE designation, and for each such person state his/her title and the role he/she played to adopt, register and/or use the BABUSHKA'S RECIPE designation.

**Response:**

Galina Pincow was the sole person involved with the initial selection of the mark BABUSKA'S RECIPE..

**Interrogatory No. 11:**

State whether any searches or investigations were conducted by Registrant, its attorneys, or any persons on its behalf to determine whether Registrant's Mark was available for use and/or registration, and, if so, identify each such search or investigation including the date such search or investigation was performed and the marks located in such search or investigation.

**Response:**

A search for relevant and responsive information is ongoing.

**Interrogatory No. 12:**

Identify all manufacturers or intended manufacturers of goods, and all promoters or intended promoters of services, bearing Registrant's Mark.

**Response:**

Please see General Objection No. 2. Upon entry of a suitable Protective Order, a response hereto will be provided.

**Interrogatory No.. 13:**

For each of the goods identified in Registrant's application, to register Registration's Mark. identify all documents supporting the date on which the mark was first used.

**Response:**

Please see General Objections No. 2 and 9. Upon entry of a suitable Protective Order, a response hereto will be provided.

**Interrogatory No. 14:**

Identify all documents and set forth with specificity all facts with respect to any instance where a person or entity has been confused, mistaken, and/or deceived as to whether any goods or services advertised or sold under Registrant's Mark are those of Petitioner, or are connected or associated with Petitioner, and for each such incident provide the date of such incident, the identity of the person or entity, and a detailed description of the circumstances of such confusion. mistake and/or deception.

**Response:**

Please see General Objections Nos. 2 and 9. While preserving these objections, Gold Star knows of no instance of actual confusion at this time.

**Interrogatory No. 15:**

Identify all documents and set forth with specificity the substance of each communication, oral or written, received by Registrant, which suggests, implies or infers that any of the products of Registrant sold under Registrant's Mark, or any mark that includes the terms BABUSHKA'S or BABUSHKINO, is a product of Petitioner or is affiliated, connected and/or associated with Petitioner, or which inquires as to whether there is or may be an affiliation, connection and/or association between Registrant and Petitioner, and identify any response(s) by Registrant to each such communication.

**Response:**

Please see General Objections Nos. 2 and 9. While preserving these objections, Gold Star knows of no responsive documents or communications at this time.

**Interrogatory No. 16:**

Identify all inquiries, investigations, surveys, evaluations and or studies conducted by Registrant or by anyone acting for or on its behalf with respect to Registrant's Mark, and marks owned or used by Registrant which incorporate the terms BABUSHKA'S or BABUSHKINO as an element of the mark, including the date conducted, the name, address and title of each person who conducted it, the purpose for which it was conducted, the

findings or conclusions made. and identify all documents which record, refer to, or relate to such inquiry, investigation. survey evaluation or study.

**Response:**

Please see General Objections No. 2 and 9. Upon entry of a suitable Protective Order, a response hereto will be provided.

**Interrogatory No. 17:**

Identify each different sign, display, point-of-sale display, label, hangtag, wrapper, container, package, advertisement, brochure, promotional material, and the like, known to Registrant which contains or bears Registrant's Mark or any variation thereof and which is intended to be used or has been used or disseminated at any time by Registrant.

**Response:**

Please see General Objection No. 2. Subject to that Objection, and without waiving that Objection, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Interrogatory.

**Interrogatory No. 18:**

Identify each person employed by Registrant, or each outside agency or agent retained by Registrant, who has been or now is responsible for the following activity with respect to any of the goods or services intended to be offered or rendered or actually offered or rendered under Registrant's Mark:

- a. marketing;
- b. advertising and promotion; and
- c. bookkeeping and accounting.

**Response:**

- a. Galina Pincow and James Pincow.
- b. Galina Pincow and James Pincow.
- c. Galina Pincow, Lyudmila Glants and Rima Vulikh

**Interrogatory No. 19:**

Has Registrant ever licensed or permitted or had negotiations to license or permit or otherwise granted rights to third parties to use Registrant's Mark or any mark including the terms BABUSHKA'S or BABUSHKINO as a component? If so, identify the party or parties who have received or sought such license or permission or other right, state the nature and extent of any such license or permitted use or right, given or negotiated. and identify and describe all documents comprising or containing any such license, permission, or other right or any agreement in respect to such mark.

**Response:**

No.

**Interrogatory No. 20:**

For each of the goods or services sold under Registrant's Mark, set forth the number of units and dollar amount of the annual sales of such goods or services, the dollar amount of

animal advertising expenditure on such goods or services, and the individual media through which such advertising took place, and the dollar amount of advertising through each such media: and identify documents sufficient to support your response to this interrogatory.

**Response:**

Please see General Objection No. 2. Upon entry of a suitable Protective Order, a response hereto will be provided.

**Interrogatory No. 21:**

State in detail the channels of trade in which Registrant's Mark is used and/or in which goods bearing Registrant's Mark are sold, including the geographic area by state, territory or possession in which Registrant's Mark is used and/or sold, the manner in which the goods or services reach the ultimate consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel, and identify documents sufficient to support your response to this interrogatory.

**Response:**

Please see General Objection No. 2. Upon entry of a suitable Protective Order, a response hereto will be provided.

**Interrogatory No. 22:**

Identify each statement or opinion obtained by or for Registrant regarding any issue in this cancellation proceeding including, but not limited to, whether the statement was oral



or in writing, and identify all documents which record, refer to, or relate to such statement or opinion

**Response:**

Please see General Objections Nos. 1 and 2. Upon entry of a suitable Protective Order, a response hereto will be provided.

**Interrogatory No. 23:**

Identify with specificity the marketing methods used in the advertising and/or sale of goods and/or services by or for Registrant under Registrant's Mark, including, without limitation, the names of television stations, radio stations, Internet web sites, newspapers, magazines, trade journals or periodicals, and/or retail establishments in which Registrant has advertised and intends to advertise its goods and/or services under Registrant's Mark, and identify documents sufficient to support your response to this interrogatory.

**Response:**

Catalogues, flyers, sell sheets and sales by company personnel. Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

**Interrogatory No. 24:**

Identify the ordinary purchaser of the goods or services sold and intended to be sold under Registrant's Mark including, without limitation, the level of care exercised by such an

ordinary purchaser in purchasing the goods or services sold under Registrant's Mark.

**Response:**

Registrant sells its products directly to wholesalers, distributors, grocery stores, supermarkets, ethnic stores and specialty food stores. The products' ultimate consumers, however, are the retail customers of those stores, who may range in education from children to recent émigrés to highly educated professionals. It is believed that the level of care that general consumers exercise, however, is not high, given the cost of the products.

**Interrogatory No. 25:**

Identify all documents relating to and set forth with specificity all facts regarding any instance where Registrant has notified anyone that any trademark or service mark used by that person or entity infringed Registrant's Mark and/or any mark of Registrant that includes the terms BABUSHKA'S or BABUSHKINO, and for each such instance provide a detailed description of any action taken thereafter.

**Response:**

Please see General Objection No. 9. Subject to, and without waiving that Objection, Gold Star responds as follows: On or about May 11, 2002, counsel for Gold Star sent a facsimile transmission to Natar Foods, Inc. ("Natar") demanding that Natar cease and desist from using the mark "Бабушкин Творог" for farmer cheese. To the best knowledge, information and belief of Gold Star, Natar has ceased using that mark applied to those goods. Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems

responsive to this Interrogatory.

**Interrogatory No. 26:**

Has Registrant ever been a party to any litigation or administrative proceeding, other than the present cancellation proceeding involving Registrant's Mark? If so, state all circumstances surrounding same including, without limitation, the name of the parties and identification of the proceeding, Registrant's status therein, the mark or marks involved, the type of proceeding involved, the name of the court or agency in which it was filed, the date of the filing and the file number, the ultimate disposition of the proceedings, and identify each document relating to such proceeding.

**Response:**

No.

**Interrogatory No. 27:**

For purposes of establishing priority of use, identify the earliest date upon which Registrant intends to rely in this proceeding with respect to its use of Registrant's Mark and/or any mark that includes the terms BABUSHKA or BABUSHKINO, and produce all documents relating to such use(s).

**Response:**

Shortly after April 7, 1998. Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request

**Interrogatory No. 28:**

Describe the meaning and derivation of the phrase BABUSHKA'S RECIPE as used in connection with the goods of Registrant upon or in connection with which Registrant has used that phrase.

**Response:**

The phrase "BABUSHKA'S RECIPE" means "grandmother's recipe. It has no meaning in connection with the goods of Registrant upon or in connection with which Registrant has used it.

**Interrogatory No. 29:**

State the approximate percentage of sales of products bearing Registrant's Mark via the Internet versus other sales channels, and identify documents sufficient to support your response to this Interrogatory.

**Response:**

Please see General Objection No. 2. Subject to that Objection, and without waiving that Objection, Registrant makes no sales over the Internet.

**Interrogatory No. 30:**

Identify all experts employed by Registrant for purposes of this action. For each expert, identify his or her field of specialization, whether Registrant intends to call him or her as a witness, the subject matter on which he or she is expected to testify, the bases for each

opinion, and identify all documents that relate in any way to the subject matter, facts, and/or circumstances as to which the expert is expected to testify.

**Response:**

Registrant has not as yet retained any expert.

**Interrogatory No. 31:**

Identify each non-expert witness that Registrant expects to testify, the subject matter on which the witness is expected to testify, each fact and/or opinion to which the witness is expected to testify, the bases for each opinion and identify all documents that relate in any way to the subject matter, facts, and/or circumstances as to which the witness is expected to testify.

**Response:**

Registrant has not yet identified all of the witnesses it intends to call, nor the exact subject matter of the testimony on which any witness will testify.

**Interrogatory No. 32:**


Identify each person who participated in or supplied information used in answering any of the above interrogatories; beside the name of each such person, state the number of the interrogatory answer(s) with respect to which the person participated in or supplied information.

**Response:**

Galina Pincow, all Interrogatories.

Signed as to Objections  
COHEN, PONTANI, LIEBERMAN & PAVANE

By

  
Roger S. Thompson  
551 Fifth Avenue  
New York, New York 10176  
(212) 687-2770

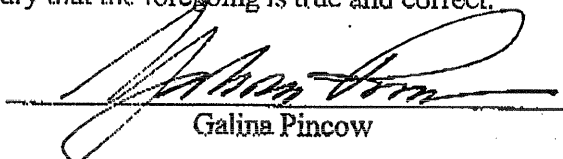
Dated: May 21, 2007

*Attorneys for Registrant,  
International Gold Star Trading Corp.*

# DECLARATION OF GALINA PINCOW

Galina Pincow declares that she has been authorized by International Gold Star Trading Corp. to make the within Registrant's Responses to Petitioner's Interrogatories and knows the contents thereof, and that to the best of her knowledge, information and belief, after a review of corporate records and a reasonable inquiry, they are true.

I declare under penalty of perjury that the foregoing is true and correct.

  
Galina Pincow

Executed On May 21, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below, a true and correct copy of the foregoing Registrant's Responses to Petitioner's Interrogatories, was served by first class mail, postage prepaid, on counsel for Petitioner, addressed as follows:

Samuel Friedman, Esq.  
225 Broadway, Suite 1804  
New York, New York 10007

  
\_\_\_\_\_  
Roger S. Thompson  
*Counsel for Registrant*

May 21, 2007  
Date